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Montana. Dept. of  
Highways  
Utilities manual

# State of Montana

## Department of Highways

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## UTILITIES MANUAL

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## PREFACE

Highway design standards have changed greatly since the advent of the horseless carriage. Similarly, utilities have made great progress since the day of the manual post auger. State Highway Officials and the Federal Highway Administration have adopted controlled access standards on our interstate system that have far-reaching effects on utility companies. Also, due to traffic, maintenance, snow removal and other highway responsibilities, state and county highways have required an ever increasing width of right-of-way greatly exceeding the standard 66-foot width that was originally set aside by our government for highway purposes. The widely varying construction limits of these newer highways create many and varied problems for utility companies and for the state.

This manual has been prepared to establish a clearer understanding of those policies and procedures by which utilities and highways may serve their users and progress together. Its purpose is not to dictate policy and procedure, but to delineate those policies and procedures now in use.

We hope, with the aid of further experience gained by working together, that the utilities and the state will be able to improve this manual and simplify their methods to better serve the people of this great state.



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## UTILITY POLICY AND PROCEDURE MANUAL

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## UTILITIES SECTION

### 1. INTRODUCTION

#### 1.1. General Duties of Utilities Section

- A. The Utilities Section is a part of the Right-of-Way Bureau since it is in that section that the initial utility inspection and notification to the utility companies can best be expedited and early determination made of which utility conflicts will have to be eliminated or adjusted. At the same time as the right-of-way acquisition is started, utility negotiations can be initiated. This gives the utility companies a period of time in which to determine the supplies and work force which will have to be available to complete the necessary work. Since utility companies do not carry many items such as cable, poles, casing, etc., in their permanent inventories in sufficient quantities to take care of other than their own needs, it is necessary that these be ordered as early as possible because delivery dates may vary from three to six months after the initial order has been placed.
- B. It is the duty of the Utilities Section to see that the utility companies are alerted to new construction, supply them with preliminary plans, make inspections, form agreements, assist with estimates and generally act as a liaison officer between the Department of Highways and the utility companies.

It is also essential that utility companies keep the Utilities Section informed of all planned new facilities and facility expansion, so this information can be used in highway planning. Utility companies will be encouraged to participate in field reviews with the personnel of the Highway Design Section and Utilities Section.

#### 1.2. Purpose of This Manual

- 1.2.1 To provide a clear statement of the Utilities Section Policy concerning the regulation of location, design, installation and adjustment of utility facilities within highway rights-of-way.
- 1.2.2 To help utility companies and others concerned to comply with State and Federal regulations, while suffering a minimum of interference to their normal business activity.
- 1.2.3 To outline clearly and in detail the actual procedures used by the Utilities Section in the discharge of its duties.
- 1.2.4 To help personnel of the Utilities Section in the course of their duties by providing necessary information in a single, compact and understandable volume.

- 1.2.5 Closely related subjects such as right-of-way, legal interpretations, surveys, plans and construction will, of necessity, be touched upon in this manual, but will not be covered in detail for obvious reasons. Manuals prepared by other sections of the Department of Highways may be obtained by those wishing detailed information not covered herein.

### 1.3. Policy and Law

#### 1.3.1 Intent of Policy

This policy is established to regulate the location, design methods of installation and methods of adjustment of utilities on all highways under the jurisdiction of the Department of Highways.

- 1.3.2 The current Regulations Governing Occupancy of State Highway System Right-of-Way by Utility Facilities are, by this reference, made a part of this manual. These regulations are incorporated as part of the Administrative Rules of Montana, Rules 18.7.201 thru 18.7.241.



# UTILITY POLICY AND PROCEDURE MANUAL

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## 2. UTILITY SECTION FUNCTIONS

### 2.1 Pre-Agreement Development

- 2.1.1 Highway projects are programmed initially in the preliminary engineering stage, through design, right-of-way acquisition, incidental construction (utility adjustments) and construction. The average time span for all stages is 3 to 5 years. The growth of the county, the related growth of utilities, and the impetus of the ready dates make it evident that early contact with the utility companies should be made to avoid delays in construction caused by late utility adjustments. The utility adjustments and relocations should, ideally, be completed before bids are obtained on the construction contract. Only those adjustments which have to be coordinated with the contractor should remain.
- 2.1.2 Prior to presenting a particular project to the Federal Highway Administration for program approval, the Utilities will, upon request by the Plans and Program Unit, furnish an estimate of cost of the necessary utility relocations and adjustments.
- 2.1.3 The Utilities Section will participate in map reviews of planned projects to assist the Preconstruction Section in making determinations that are deemed necessary to advance the project and to help establish the simplest and most economical method of adjustment or relocation.

### 2.2 Utility Agreement Development

When the project design has advanced to where utility plans can be sent to the utility so the actual relocation and adjustment of utility facilities can be determined, the following steps are taken:

- 2.2.1 Submit plans to the utility companies. The companies are to receive utility plans in accordance with article 2.6.1. These sets of plans are to be used on the field inspection. The Utilities Section will review the plans and notify the utility company of the date they will be making the inspection so the company can plan to have its representative meet a representative of the Utilities for the inspection.
- 2.2.2 A "plan-in-hand" field review is made by representatives of the utility company, the Utilities Section and the District representative to establish the most satisfactory and economical method of adjustment. The review is made, not only to establish changes in the proposed utility relocation, but also to see if minor changes in road design will result in a more economical method of adjustment, offer more protection to the traveling public, and provide a more satisfactory method of maintaining utility facilities. The utilities on the plans

should be checked against the actual facilities on the ground to make sure that all topography is correct. Location inside or outside of the existing right-of-way should be carefully checked at this time and if the existing right-of-way lines are not physically evident, a request to the District Engineer by the Utilities should be made to have them reestablished in order that a true picture of the facility in relation to the right-of-way may be obtained. A check of the utility encroachment permits in the District's file will be helpful in determining which utilities are on State right-of-way. There are cases, however, where utilities are on State right-of-way and are not aware of the fact and have never made application for an encroachment permit. It is often necessary to prove to the utility companies that they are encroaching.

The relationship of the utility to the right-of-way lines is important since the State will pay 100% of the cost of the utility move when the utility company has a prior valid property right, easement or other instrument. In many cases, the utility is both on private right-of-way and State right-of-way. In this event, the cost to the State is developed on a proportionate share basis in the same ratio as the number of poles to be moved on private right-of-way is to the total number of poles to be moved on both private and State right-of-way. Pipeline and buried cable costs to the State are developed in the same manner, but on a footage basis. In instances where utilities are located on State right-of-way by virtue of a statutory right, the State will pay 75% of the cost to adjust the facilities in conflict. Where the problem is complicated by the necessity of adjusting several utilities and/or extensive adjustments, the utility companies are asked for as many alternate plans and estimates as are deemed necessary for review by the Utilities Section. The review is held to establish the most economical method of adjustment, ease of maintenance, maximum protection to the traveling public, to avoid unsightly facilities along or over highways and to avoid unnecessary cost and difficulty of maintenance to the highway.

- 2.2.3 When all concur, the utility company is asked to make a formal and complete estimate, with detailed plans, establishing the method and manner of adjustment. The estimate will be checked by the Utilities Section to see that the utility company has complied with the applicable sections of the Federal-Aid Highway Program Manual 6-6-3-1. The estimate will be checked against the plans to see that quantities agree. The proposed relocation facility will be checked with design plans to see that it will not cause any conflict with construction. On interstate projects, the proposed relocation will conform to the "AASHTO Policy on The Accommodation of Utilities on Freeway Rights-of-Way".



2.2.4 Upon receipt of approved plans and estimates, the Utilities Section will prepare and present two original copies of the standard State-Utility agreement to the utility company for execution by proper officials. There are, generally, two types of utility agreements for reimbursement to the utility company. The FHPM provides for the use of two types of agreements. They are actual cost agreements, and lump sum agreements up to \$25,000.00. The actual cost agreement requires that the utility submit material receipts and an accurate record of labor and equipment used on the project when billing the Highway Department. The lump sum agreement may be used when the scope of the work is well defined, and the Utility Section agrees that the utilities estimate reflects a realistic cost to accomplish the required work. In this case, the utility will bill and be paid the actual lump sum amount developed and agreed to in the agreement. Payment will be made in full after authorization has been given that the work has been completed by the utility company. Prints of the plan sheets showing the existing and new facility will be included in each copy of the agreement. Prints are color coded showing the existing facilities and the work to be done to accomplish the proposed relocation.

2.2.5 Upon receipt of the signed agreement from the utility company, one copy of the utility agreement is then forwarded to the Audit Unit for review. Upon the return of the agreements, one copy is sent to the Right-of-Way Attorney for inspection as to form and execution. This review of the agreement renders a legal opinion concerning rights of reimbursement for utility adjustments based upon the review of the property interest documents attached to the agreement. Two original letters of transmittal requesting agreement approval, and photocopy of the agreement to the Federal Highway Administration. Upon review and approval of the agreement, the Federal Highway Administration signs and returns one of the original transmittal letters and the signed original of their Form PR-1240.

2.2.6 The Utilities Section will, upon receipt of the Federal Highway Administration's approval and authorization, obtain the signature of the designated highway official then forward to the utility company one original and one facsimile copy of the fully executed agreement, together with a letter of transmittal.

The first original copy of the agreement is to be retained by the State. Three facsimile copies will be sent to the District Engineer of the Department of Highways and one facsimile copy of the agreement will be sent to the Audit Unit and Construction Bureau. Agreements involving reimbursements due to the state, from the Utility - two copies of the agreement are sent to: Accounting Bureau - Federal and Private Receipts Section

and one copy to the Contract Plans Section. The letter of authorization to the utility company or cooperative to proceed with the physical adjustments of the facilities comes from the District Engineer (Note: Contractor use by a utility must be supported by being awarded in accordance with practices followed by the utility in the accomplishment of the utilities non-highway related work. Further details of this procedure are covered in Article 2.10.

- 2.2.7 When all utility relocation agreements have been completed, the District Engineer will prepare Joint Use Agreements (RW 131) or Common Use Agreements (RW 133) recognizing the utility company's previous property rights and continuing property rights to occupy the position it is in after relocation. The Revocable Permit (RW 20 and RW 20 S) is used when a utility locates their facility in an area not previously approved or on a structure. Two (2) original copies of the agreement will usually be prepared unless the company has requested more than one copy. When the Common Use Agreement has been signed by the company, the District Engineer will send both originals to the Utilities for review and approval. One original copy will be sent to the utility company, one original copy will be retained by the office of the District Engineer and one facsimile copy will be sent to the Maintenance Division. The District Engineer will also process all "Notice of Utility Occupancy and Use of State Highway System Right-of-Way" agreements (RW 131). The utility company will not be allowed to begin physical construction of the new facility until approvals of all RW 131 and RW 133 have been obtained.
- 2.2.8 An Explanation of Utility Agreement Flow Chart Procedure through the Utilities Unit is further explained and shown in the Appendix under Article 1, Item A.
- 2.2.9 The Utilities will keep itself informed of any changes that might occur in the right-of-way or design of the roadway sections and alignment and immediately inform the companies if the changes appear to conflict with the proposed utility relocations.
- 2.2.10 Every attempt should be made to have all utility agreements to the District so the project can be cleared of utilities prior to project ready date. There may be certain adjustments that have to be coordinated with project construction.

## 2.3 General Agreement Requirements

- 2.3.1 In utility adjustments, the first consideration must be that of establishing the eligibility for State reimbursement and Federal participation in all costs of the utility relocation.



If preliminary engineering is to be performed for the utility by a consultant, prior approval of a project program for incidental construction for the use of said service must be obtained from the State and Federal Highway Administration.

The cost incurred for replacement, relocation and/or adjustments will not be eligible for reimbursement until the utility agreement has been approved by the Federal Highway Administration, and the authority to proceed has been given by the State. In extreme emergency, permission may be given by the State with the Federal Highway Administration's concurrence prior to approval and execution of the utility relocation agreement, when necessary materials require early procurement, or are in short supply.

The Federal Highway Administration will establish the date of eligibility for work to begin, but, normally, agreement approval and cost participation will govern.

#### 2.3.2 Federal Utility Reimbursement Regulations

The regulations which fix Federal cost participation relative to utility work are contained in the Federal-Aid Highway Program Manual 6-6-3-1, which, by this reference, are made a part of this manual. These FHPM's not only prescribe procedure, but also establish controls and general requirements in regard to eligibility, agreement preparation and handling, plan and estimate preparation, credit for expired service life, developing and recoding costs, betterment and salvage values, reimbursement, billing and other items. Since State reimbursement is limited to the amount eligible for Federal participation under these regulations, it is necessary for personnel of the State and the utility companies to familiarize themselves with these regulations. Prior approval of the Federal Highway Administration for prescribed phases of utility work is required. Unless these regulations are met, many otherwise eligible items may be declared ineligible for State and Federal participation. Particular attention is directed to the requirements regarding services of technical consultants, construction contracts and salvage materials.

#### 2.4 Departmental Utility Design Policies

State design and placement policies applicable to utility installation are the responsibility of the Preconstruction Bureau, and District Construction Section. The "Regulations Governing Occupancy of State Highway System Right-of-Way by Utility Facilities" contains the State's design and placement policies as adopted by the Department of Highways. Each adjustment shall be reviewed under the State's requirements, but, if an existing or proposed installation will not fully conform to State policy, it may be considered, on an individual basis, for possible exception. If an exception is

considered warranted, all pertinent information should be submitted to the Utilities Section for their recommendation. All irregular utility problems must be reviewed by the Federal Highway Administration's Division Engineer or their representative before final acceptance.

## 2.5 Preliminary Utility Negotiations

2.5.1 General: There should be a constant flow of information and a continuous exchange of ideas between the State and the utility company to provide a maximum lead time. The utility adjustments should be made (and those adjustments requiring coordination with highway construction should be provided for) at least 6 weeks prior to project letting. The goals for this phase are:

- A. The adjustments shall be made in a way which will not delay the highway program.
- B. Maximum safety will be given to the traveling public.
- C. The adjustments shall be made in a manner which provides:
  - 1. The most economy.
  - 2. The least inconvenience.
  - 3. The most protection to both the highway and the utility.

## 2.5.2 Determining Location of Utilities

The Preconstruction Section will furnish a set of utility maps, showing the location and types of the known utilities on each project, which will be presented to the utility companies. During the field inspection, the necessary additions or deletions will be made so the State will have an accurate map. (It is obviously impossible for the State to locate and map all underground facilities).

## 2.5.3 Determining Property Interests

The State's initial request for information from the utility companies will also request that they furnish the State a map or other descriptive documents of their property rights, including both occupied and unoccupied areas.

2.5.4 The utility companies should be provided with sufficient copies of the Federal-Aid Highway Program Manual 6-6-3-1, as currently amended. The companies should become familiar with all the requirements relating to reimbursement for adjustments. It is imperative that the companies realize that practically all facets of adjustments and related work require prior approval of the

Federal Highway Administration. The utility companies should be sure that preliminary engineering has been authorized.

#### 2.5.5 Preliminary Engineering and Planning

After authorization to incur preliminary engineering, the utility may proceed with the plans for the required adjustment. Since State cost participation is limited to the most economical method of adjustment, within the framework of good design requirements, the utility should determine the proper route and design of the proposed facility after a joint field inspection and after engineering consultation with the Utilities Section, the Preconstruction's representative and the Federal Highway Administration's representative. It is intended that all conflicts relating to economics, AASHTO policies, design requirements and betterments be resolved at this stage of negotiation. It may be necessary for the utility to prepare alternate plans of adjustment in order to establish the most economical and suitable method of adjustment. When complex problems arise, job site studies should be arranged. Comprehensive engineering reviews should be accomplished at this stage, and detailed study should be made, with emphasis on coordination with the successful bidder on the highway contract, in order to avoid unnecessary delays. The moves should be sequenced to avoid delaying a major project.

#### 2.5.6 Use of Consulting Engineers

Paragraph 6b of FHPM states, "Where a utility is not adequately staffed to pursue the necessary preliminary engineering and related work for the utility relocation, Federal funds may participate in the amount paid to engineers, architects, and others for required engineering and allied services provided such amounts are not based on a percentage of the cost of relocation." This sentence applies most frequently to those instances where a utility must engage a consulting engineering firm to perform engineering services, either all or part, for the preliminary, design and construction phases of an adjustment or relocation. Care should be taken to insure that no consultant charges are incurred prior to State and Federal Highway Administration approval. For detail procedure in obtaining consultant approval, see Article 2.9.

#### 2.5.7 The utility will select the most economical route available for the adjustment. Necessary right-of-way will be purchased by the utility company, not the State. The cost of right-of-way is a reimbursement item. The cost should be established by good appraisal practice. Most utility companies will not resort to condemnation; therefore, in rare instances, the State may include the



additional right-of-way must be supported by adequate documentation by the utility company.

Prior to negotiation, the utility shall establish the value of the rights it will require, and this cost shall be incorporated in the utility agreement estimate. Appraisal for the establishment of right-of-way costs is a part of preliminary engineering, but actual purchase of right-of-way cannot be accomplished until the utility agreement is approved by the Federal Highway Administration and authority has been granted by the State. Any purchase of right-of-way prior to the State's and the Federal Highway Administration's approval is ineligible for reimbursement.

#### 2.5.8 Disposition of Existing Utility Facilities

Federal participation for utility work is governed by FHPM 6-6-3-1, as currently amended. Paragraph 10e(3) of FHPM 6-6-3-1 provides that the utility company may receive reimbursement for removal cost subject to several conditions. This facet of utility relocation usually pertains to underground facilities; for example, it may be more economical to abandon an underground telephone cable or small diameter pipe in place, provided it does not interfere with highway construction, and will not later contribute to a road failure. The criterion for determining whether to abandon or remove a utility is weighing the cost of two categories: A. When existing facility is replaced, and B. When existing facility is not replaced.

##### A. Existing facility is replaced.

1. When the State determines that the existing facility cannot be allowed to remain in place, then the facility will be removed as per Paragraph 10e(2). If the utility company removes the facility, the cost will be reimbursable, and credit will be required for materials removed in accordance with Paragraph 10h(1).
2. When the State determines that the existing facility should not be removed, or will not have to be removed, no payment will be made to the utility, nor credit required from the utility. (A replacement facility is being installed; therefore, compensation is being made, and the utility is made whole).

##### B. Existing facility is not replaced.

When the existing facility or any portion thereof is not being replaced, the cost paid and the credits required for such existing facility are covered by

FHPM 6-6-3-1, Paragraph 10h(3). The following will govern for each condition:

1. When the State determines that the existing facility cannot be allowed to remain in place, then the facility shall be removed by the owner, except as covered under Paragraph 10e(3). The cost of removal will be reimbursable provided it meets with the requirements of Paragraph 10h(3), but no other costs will be paid. (This is based on the fact that the facility is the property of the utility.)
2. We rarely encounter the situation where the facility is not removed, and each case must be considered on its own merit. The property rights of the utility company must be considered.

#### 2.5.9 Restoration of Service to Properties

- A. The State's participation in the restoration of service to properties will be determined on the basis of whether the property was a whole take or a partial take. If the service was to a property that was taken in total, the State will participate in the cost of removal, in accordance with Paragraph 10h(4), and the State will not reimburse the utility company for any installation of new lines.

If there is a partial take of property within the proposed right-of-way, and there is an existing service to improvements on the property, the State will participate in the cost of providing new service, and the State will be given for salvage.

- B. Where highway construction disrupts utility service to an improvement outside the service area, restoration of service is eligible for State participation.

## 2.6 Maps

The Utilities Section will arrange for the delivery of the following maps to each utility company involved.

### 2.6.1 Utility Maps and Other Related Material

- A. Utility maps

The number of prints will depend on the number of utilities involved. In all cases, two prints will be needed for the District and two prints will be needed by the Utilities Section. The following is a list of the utilities most likely to be encountered and the number of prints to be added for each different utility involved:



|                               |          |
|-------------------------------|----------|
| The Montana Power Company     | 3 prints |
| Other private power companies | 3 prints |
| Rural electric                | 3 prints |
| Gas                           | 3 prints |
| Telephone                     | 3 prints |
| Rural telephone               | 3 prints |
| Water                         | 3 prints |
| Sewer                         | 3 prints |

#### B. Other Related Material

In addition to prints of the utility plans, it is necessary, to supply the Utilities Section with one print of road plans, cross sections, and typical sections. In the event that cross sections are not prepared for the project, the Utilities Section must be furnished with one set of I.B.M. cross section data.

### 2.7 Utility Plans Preparation

#### 2.7.1 State Assistance to the Utility

Preparation of the plans delineating work to be accomplished is the responsibility of the utility company. The utility company's engineering staff must plan and design the proposed facility. The State, however, should render assistance by providing the utility company with highway design data (i.e. grades, profiles, structures, alignment, cross sections, etc.), as well as right-of-way information (such as right-of-way widths and control of access lines) and other standard requirements.

Emphasis should be placed on the coordination and free flow of information between the authorized representatives of the State and the utility company.

#### 2.7.2 Plan Requirements

##### A. Procedure

Paragraph 8c of FHPM 6-6-3-1 requires that the utility agreement be supported by a plan which will be sufficiently informative and complete to provide a clear and concise picture of the adjustments and removals to be made.

### 2.8 Preparation of Utility Cost Estimates

#### 2.8.1 General Requirements

A. The cost estimate shall be prepared by the utility company, and submitted to the Highway

Department in support of the work of the utility agreement and required plans.

- B. The completed agreement shall include the agreement, plans and estimate, and should show or recite the portions of the adjustment necessitated by highway construction and those for which the utility is requesting reimbursement with proof of a valid existing prior property right. Where the adjustments are in segments, the estimate may be assembled so that the cost of each segment can be identified.
- C. The agreement shall recite that total cost of adjustments, with major subtotals for the cost for those necessitated by highway construction, those eligible for reimbursement, and those to be done at the expense of the company.
- D. All estimates will be prepared in conformance with Paragraph 10 of FHPM 6-6-3-1.

Paragraph 10i of FHPM 6-6-3-1 gives the billing process.

- E. A sample copy of a utility estimate which is acceptable to the Utilities Section has been included in the Utility Manual in the Appendix, Article 1, Item 1.

## 2.9 Approval of Consulting Engineers

The use of a consulting engineer by a utility company is acceptable as previously noted in Article 2.5.6. The method by which the utility company obtains the approval of the consultant by the State and Federal Highway Administration is as follows:

- A. When it has been determined by the utility company that it is not adequately staffed to prosecute the utility relocation, the utility company may select a consulting engineer of its choice.
- B. The consulting engineer who has been selected must, on the basis of the highway plans and utility company's knowledge of the work to be accomplished, prepare an engineering estimate. This estimate should indicate the consultant's total cost to accomplish the needs of the utility company. Engineering estimates are not acceptable if they are based on a percentage of the cost of relocation. A sample copy of an acceptable engineering estimate is attached to the manual in the Appendix, Article 1, Item H.
- C. The utility company, after receiving the engineering estimate, forwards it to the Utilities Section, together with a letter of transmittal. Demonstration is needed that the utility company will not be adequately staffed or equipped to perform

the work with its own forces at the time of the State's request for utility relocation.

- D. The Utilities Section will process the utility company's letter and the engineering estimate for acceptance by the State and Federal Highway Administration. Two copies of the letter and one copy of agreement and estimate are compiled and forwarded to the Federal Highway Administration for review and approval.
- E. Upon the return of the Federal Highway Administration's approval, the Utility Section will notify the utility company by letter that they are authorized to begin using the consultant for engineering services. The District Engineer, Construction Bureau, and the Audit Unit shall receive a copy of this letter. Consultant charges which are incurred prior to the date of the State's authorization for the use of the consultant are ineligible for reimbursement by the State.
- F. It must be understood that the State's and Federal Highway Administration's approval of a consultant for the utility company is valid only for the initial project for which the engineering estimate was prepared. Individual approval of a consultant and engineering estimate must be obtained for each and every highway project.

#### 2.10 Approval of Continuing Contractor

The use of a continuing contractor by a utility company is acceptable. Contractor use by a utility must be supported by being awarded in accordance with practices followed by the utility in the accomplishment of the utilities non-highway related work.

# UTILITY POLICY AND PROCEDURE MANUAL

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### 3. RAILROAD SECTION FUNCTIONS

#### 3.1 General

Negotiations with railroad companies are necessitated when highway construction encroaches upon railway right-of-way in any fashion. The difficulties encountered in these negotiations vary greatly and are not easily predetermined.

#### 3.2 Federal Regulations

Generally, applicable Federal regulations are obtained in Federal-aid Highway Program Manual (FHPM) 1-4-3 and in FHPM 6-6-2-1. FHPM's 1-4-3 and 6-6-2-1 are hereby incorporated in and made a part of this manual by reference. The regulations which fix Federal cost participation relative to railroad work are obtained in FHPM 1-4-3. This FHPM not only prescribes procedures, but also establishes controls and general requirements in regard to eligibility, agreement preparation and handling, plans and estimates preparation, developing and recording costs, betterment and salvage values, reimbursement, billing and other items. Since State reimbursement is limited to the amount eligible for Federal participation under these regulations, it is necessary for personnel of the State and the railroad companies to familiarize themselves with these regulations.

Approval from the Federal Highway Administration for prescribed phases of railroad work is required. Prior to sending the agreement and authorization to the Railway or to the District Engineer, the Utilities Section must be in receipt of the PR 1240 form from the Federal Highway Administration. Unless this is done, eligible items may be declared ineligible for State and Federal participation.

#### 3.3 Preliminary Railroad Negotiations

The first move made by the Utilities Section in such matters is that of informing the Railroad of any plan to encroach upon their property. This notification frequently precedes preparation of even the preliminary plans and will often be nothing but a letter stating that there is thought being given to construction that will possibly involve the railroad. The Utilities Section has found such notice to be appreciated and final agreement much easier to achieve.

#### 3.4 Railroad Application Plans

The usual type of application to the railroad company will involve forwarding three sets of marked up highway right-of-way plans, showing in colors, the encroachments on railroad right-of-way, two sets of plan and profile highway plans, and two sets of highway cross sections showing the design of the new roadway which will affect the railroad. The highway plans are to be complete as per the Highway Design Manual.



For each railroad involved on a particular project, 5 sets of R/W Plans and 3 sets of cross sections and road plans will be needed. Prints of the road plans should include plan and profile sheets of the encroachment area, title sheet and typical sections.

The Utilities Section will receive the appropriate railroad application plans from the Preconstruction Bureau, together with a memorandum of "scope of involvement".

The above plans are to be used by the railroad company for the preparation of their estimates and exhibits, as well as for a field review with their representatives and representatives of the Federal Highway Administration, Utilities Section and District, as appropriate. In addition to the railroad, application plans (one complete set) are furnished to the District Engineer by the Utilities Section.

### 3.5 Railroad Agreements

There are several types of agreements with railroad companies; very similar in the most part, but quite dissimilar in certain respects. The following are a few of the cases covered in company and state agreements:

Case #1 - Signal Agreements. When a new signal is to be placed or an existing signal is to be updated or reset, a new signal agreement is required. The agreement will be a two-party or tri-party agreement.

The two-party agreement is used on state-maintained roads where the state is responsible for any uncollectable vehicular damage and advance warning signs.

The tri-party agreement is used when a city or county is responsible for maintenance of the system. The city or county is responsible for uncollectable vehicular damage and advance warning signs. When a tri-party agreement is required the Project Analysis Bureau will secure in advance a pre-signalization agreement with the city or county before the Utilities Section is authorized to begin preparation of the signal agreement. The pre-signalization agreement covers the cities' or counties' responsibilities in regards to the future signal installation.

The Project Analysis Bureau will program off-system and secondary projects through construction. All other projects are programmed through the preconstruction stage only. The Federal Highway Administration must approve the completed agreement before they will program construction funds for the actual construction of the signal.

The FHWA is to receive a copy of all signed signal agreements.

The agreement will comply with the Federal-Aid Highway Program Manuals 6-6-2-1 and 1-4-3. The location of the signals will comply with the Manual on Uniform Traffic Control Devices. The above manuals are part of the agreement by reference.

Case #2 - Construction and Maintenance Agreement (Railroad - Highway Agreement). When the railroad is required to perform work on their own facilities, a Construction and Maintenance Agreement is required. This is a binding agreement between the Highway and Railway paying the actual cost of the work performed by the Railway. This agreement can give right of entry to the proposed right-of-way prior to receiving the easement. The Construction and Maintenance Agreement contains a clause providing for railroad protective insurance and flagging protection whenever a State's Contractor is going to work on railroad right-of-way.

The agreement will comply with Federal-Aid Program Manuals 6-6-2-1, 6-6-2-2 and 1-4-3. These manuals are part of the agreement by reference.

Case #3 - Easements, Licenses and Permits. When the Highway Department needs to construct a portion of the highway or operate equipment on railroad right-of-way, the following procedure is followed. The railway operations department will submit a letter to the department with a copy to their land section giving approval of the proposed highway work or right-of-way to be acquired.

The required easements, permits, or licenses will be prepared by the department and submitted to the railway's land section. The easements, licenses, or permits will give the department the right to do their construction but will contain covenants sought by the railway. These covenants are to be approved by the department's Legal Bureau.

The easements, licenses, and permits will comply with the Federal-aid program manuals and department policies.

The above are the basic types of agreements the department receives from the railway companies. The procedure to obtain them is outlined in the remaining portion of the manual.

### 3.6 Field Review

The Utilities Section will review the railroad application plans and set up a meeting with the railroad company to inspect the project and review the highway plans.

A field review is made by representatives of the involved railroad, the Utilities Section and the District Engineer's representative to establish the most satisfactory and economical method of adjustment. The review is made not only to establish changes in the railroad facilities, but also to see if minor changes in road design will result in a more economical method of adjustment. The railroad facilities on the plans should be checked against the actual facility on the ground to make sure that all topography is correct. Location inside or outside of the existing right-of-way should be carefully checked at this time and if the existing right-of-way lines are not physically evident, a request to the District Engineer by the Utilities Section should be made to have them reestablished in order that a true picture of the facility in relation to the right-of-way may be obtained.

Generally, the State will pay 100% for the cost of constructing or adjusting railroad facilities when the railroad company has a prior valid property right, easement or other instrument. In cases where the railroad does not have a valid property right, easement or other instrument, the railroad will be advised by the Utilities Section or property owner to remove or adjust their facilities to accommodate the proposed highway construction at no cost to the State. In certain cases, the railroad shall share in costs. In this regard, all projects involving railroads must be reviewed against Paragraph 6 (Classification of Projects and Railroad Share of the Cost) of FHPM 6-6-2-1 for applicability of provisions.

When the plans and any relocation work required by the railroad are acceptable to all concerned, the railroad company is then asked to make a formal and complete estimate, with detailed plans, establishing the method and manner of their adjustment. The estimate will be checked by the Utilities Section to see that the railroad has complied with the applicable sections of FHPM's 1-4-3 and 6-6-2-1. The above information is then written into the Railroad-Highway Agreement.

### 3.7 Processing Railroad Agreements.

Generally, the preparation of all railroad agreements is taken care of by the involved railroad company. The short line railroads are not set up to write agreements and the Utilities Section is preparing the agreement and easements. The preliminary agreement is forwarded to the Utilities Section for its approval. The Department is now being asked to write the required easements.

Upon the State's receipt of the preliminary agreements, sufficient copies are made to allow distribution to the various sections of the Department of Highways for review and acceptance. This distribution is as follows:

|                                       |        |
|---------------------------------------|--------|
| Plans Section                         | 1 copy |
| Right-of-Way Attorney                 | 1 copy |
| Preconstruction Bureau                | 1 copy |
| Bridge Bureau (if structure involved) | 1 copy |
| Audit Unit                            | 1 copy |
| Federal Highway Administration        | 1 copy |

When acceptance and/or comments concerning the agreements are received from the above distribution, a determination has to be made as to whether or not further corrections or negotiations are required. The Railway will be notified of any changes or revisions required. After appropriate corrections, the Railway will forward two signed copies of the agreement to the State. After the agreement is signed by the Chief of the Right-of-Way Bureau, an executed copy is forwarded to the Federal Highway Administration with the Incidental Construction funding request. When the Utilities Section receives the approved PR 1240 form from the FHWA, the approved agreement is sent to the Railway.

The approved agreement is distributed as follows:



|                                   |                               |
|-----------------------------------|-------------------------------|
| Right-of-Way File                 | 1 orig. (Const. Agree.)       |
|                                   | 1 orig. & 2 copies (Easement) |
| District Engineers                | 2 copies (Const. Agree.)      |
|                                   | 1 copy (Easement)             |
| Construction Bureau               | 1 copy (Const. Agree.)        |
| Accounting Bureau                 | 1 copy (Const. Agree.)        |
| Contract Plans Section            | 1 copy (Const. Agree.)        |
| Federal Highway<br>Administration | 1 copy (Const. Agree.)        |

The District Engineer is advised at the time he receives his copies of the construction agreement that he may, when applicable, authorize the railroad company to proceed with their work.

After distribution of agreements, no further action is normally required by the Utilities Section. The appropriate District administers the Railway-Highway Agreement.

### 3.8 Flow Chart Procedure of Railroad Agreements, Easements and Estimates

1. The Preconstruction Bureau is to secure input from the Railway during the preliminary design stage of a project through the Utilities Section.
2. When the Preconstruction Bureau has received design approval and after the final plan-in-hand, the Utilities Section is furnished railroad application plans. Sufficient plans are furnished to provide at least one set to each of the personnel of the railroad company is involved with processing project for approval.
3. The railroad company involved is furnished plans with a letter of transmittal arranging for a joint field inspection.
4. At a predetermined date, a joint field inspection is made with the representatives of the Utilities Section, the railroad involved, and the District representative to mutually review encroachments on railroad right-of-way and determine adjustments required to clear the highway construction limits.
5. After determining approximate relocation work involved by actual field measurements, an estimate is submitted by each railroad company involved. Estimates are formulated according to the requirements of Federal Highway Administration's FHPM's 1-4-3 and 6-6-2-1. Estimates are then incorporated in the construction and maintenance agreement. The Department will prepare the easements for each specific project.
6. A review is made of each agreement and estimate as to facilities relocated. The arithmetic, participation costs and compliance with FHPM's 1-4-3 and 6-6-2-1 and State of Montana legal statutes is checked. Any irregularities are made known to the railroad company and corrections are made accordingly.

7. After the railroad agreement and estimate are received, they are submitted to the Right-of-Way Attorney, Plans Section, Audit Unit, Preconstruction Bureau, Federal Highway Administration, and Bridge Bureau (if structure involved) for review and acceptance.
8. Upon the acceptance of all those who are involved in Step 7, the agreement and estimate are then forwarded to the Chief - Right-of-Way Bureau for his execution.
9. After the agreement and estimate are fully executed, and returned, copies are made to distribute; two to the District Engineer and one each to the Construction Bureau, Accounting Bureau and the Contract Plans Section. At this time, the Utilities Section advises the District Engineer, when applicable, to authorize the Railroad to proceed. At this time, the Utilities Section may authorize the railroad to order the necessary materials. The District will assess the work required to be accomplished by the railroad. Some work will need to be completed prior to the State's contractor working on the project while other work may be coordinated with the contractor's schedule. The original agreement, easement and estimate are placed in the railroad file in the Utilities Section.
10. Those documents which necessitate recording and/or payment are further duplicated and forwarded to the Land & Records Section for this purpose. The completed railroad file is forwarded to the Land & Records Section for processing and microfilming. The District office is to receive copies of all official documents for their permanent files.

### 3.9 Responsibility and Procedure for Preparing Railroad Plans

The requirement for processing of State agreements and needed plan approval associated with State highway projects indicates the need to develop and set down in writing precisely who should take what action in handling of railroad involvements.

In accordance with this need, the following procedure is presented for consideration and subsequent action necessary to make it operational.

#### Railroad Involvements

- A. When construction for a project encroaches on railroad right-of-way, it is necessary to provide the information required to make an application for new easements or permits required for the project.

Railroad standards are that new easements should not extend closer than 50 feet to the mainline track. Branch line standards are no permanent easement closer than 25 feet from the center of the track. The highway shoulder should be no closer than 50 feet from the center of the track. Under certain extreme cases where we do not have any reasonable



alternative other than to locate the construction of the highway closer than the railroad standards, the railroad may approve closer easements. In such cases before R/W plans are prepared, contact should be made with the railroad through the Utilities Section, to gain approval of such design. Permits are usually granted to within a reasonable distance of the tracks. Permits should only be used where the final constructed facility on such area will not have to be maintained by us in the future. When channel changes or any other permanent highway construction facilities are to be made on railroad right-of-way, the cross sections should include all details such as width, depth, etc.

In drawing the proposed easements and permits on the right-of-way maps, it is necessary that certain required procedures be followed in order to prepare an adequate application to the railroad company. In cases where the highway centerline crosses the railroad centerline, it is necessary to show the railroad stationing and highway stationing at the point of crossing. The angle of intersection between the two centerlines should also be shown. Both railroad and highway stationing should be shown at all right-of-way break locations where the highway R/W line intersects the railroad R/W. On any encroachment, it is necessary to show distances to the right-of-way line from the highway centerline and railroad centerline as illustrated in the design manual. The road designer, even though he has a set of field notes, should coordinate them with the Bridge Bureau's bridge and grade crossing notes. In many instances, there are discrepancies in distances, stationing and angles between the two sets of notes.

- B. Preconstruction Bureau Responsibility It is the responsibility of the road designer to see that the Utilities Section is furnished with accurate and complete railroad application plans. These plans must contain all of the information provided by the railroad field notes. Any omissions or misinformation recorded on the application plans will ultimately result in additional field railroad inspections and thus a delay in processing the railroad agreement and needless expenditures of highway funds. The designer will see that the railroad application plans conform with the latest road plans and cross sections and any changes in alignment, additions or revisions to the road plans must be reflected therein.

Before consummation of the final proposed agreement, a copy is sent for the designer's review. He should compare the agreement to the plans to make sure the agreement is correct and covers all requirements of the project. If discrepancies are spotted, the Utilities Section should be notified so appropriate changes in the agreement can be made. After the agreement is complete and executed, one copy is sent to Contract Plans. It is their responsibility to work with the Area Engineer and designer to make sure requirements of the Railway-Highway Agreement are covered as necessary in the design plans, contract provisions and contract special provisions.

- C. Standard Procedure of Processing Railroad Conflicts Railroad application plans are generally prepared from the right-of-way original plans. On these prints, all existing easements should be colored yellow; proposed easements, colored red; proposed permits, colored green; proposed deeds, colored orange; PTW, colored brown. On interstate and limited access projects, it will also be necessary to draw a blue line to indicate control of access. One set of the above marked up right-of-way plans will be furnished to the Utilities Section. The remaining sets of right-of-way plans furnished to the Utilities Section may be unmarked. The application plans should not, ordinarily, be made and forwarded to the Utilities Section until after the final road plan-in-hand inspection has been made and appropriate changes made to the road plans, cross sections and right-of-way plans. It is imperative that the Preconstruction Bureau has obtained design approval prior to sending right-of-way plans to the Right-of-Way Bureau for acquisition.

The road designer is to forward 5 sets of right-of-way plans and 3 sets of cross sections and road plans, together with a memorandum of "scope of involvement" to the Chief - Right-of-Way Bureau, attention Utilities Section, for their use in making railroad agreements. Prints of the road plans should include plan and profile sheets of the encroachment area, title sheet, typical sections, and any special design features on the railway right-of-way.

- (1) Unusual Situations There will, undoubtedly, be instances where the designer will be in doubt as to how the adjustment of railroad facilities should be handled and how temporary and permanent encroachments should be made to the railroad companies. In these cases, the road designer should arrange to meet with a representative of the Utilities Section so that an agreeable procedure could be worked out and the necessary railroad application plans prepared. In the preliminary stages of the road design, it will often be advantageous to submit our plans to the railroad companies where extensive railroad encroachments or adjustments are involved. This procedure will enable the Department of Highways to coordinate its planning with the railroad companies and will, often times, save considerable work and money towards the development of final plans. Preliminary applications will be handled in the same manner as the usual railroad applications listed above.

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## Explanation of Utility Agreement Flow Chart Procedure

1. Upon completion of a respective design, the Utilities Section is furnished utility plans by the Preconstruction Section. Sufficient plans are furnished to provide at least three sets to each utility company involved, and two for the Utilities Section.
2. The utilities involved are furnished plans with a letter of transmittal arranging for a joint field inspection.
3. At a predetermined date, a joint inspection is made with a representative of the Utilities Section, representatives of utility companies involved and a representative of the District to mutually determine adjustments required to clear construction limits.
4. After determining approximate relocation costs, either by actual field engineering or plant experience records, an estimate is submitted by each utility involved. Estimates are formulated according to the requirements of FHPM 6-6-3-1.
5. A review is made of each estimate as to arithmetic, right-of-way status, participation costs and compliance with FHPM 6-6-3-1. Any irregularities are made known to either the utility or to the Federal Highway Administration, or both, and corrections are made accordingly.
6. After the estimate is considered acceptable, a standard agreement form is prepared and submitted to the utility for signatures. Upon return to the Utilities Section: The agreement is then forwarded to the Highway Audit Unit for its approval after which it is forwarded to the Right-of-Way Attorney for his review and legal opinion of property rights and then:
7. When the agreement is returned to this office, ample copies are made to distribute; two to utility company; three to Division Construction Section; one to Construction Bureau; and one to Audit Unit. The original is placed in the files of the Utilities Section.

OFFICE PROCEDURE FOR INITIATING AND PROCESSING  
UTILITY AGREEMENTS

NOTE: Record all progressive steps of each utility agreement on utilities progress Form 28/L. Attach Form to and keep with the Estimate/Agreement at all times.

COST ESTIMATES

1. Check the company's cost estimate for accuracy in computations.
2. Check the map against cost estimate to determine if number of relocations has been accurately totaled. Make notation on map to indicate how many relocations are on private right-of-way and how many are on public right-of-way.
3. Stamp "EXHIBIT A" on cover letter accompanying the company's estimate.
4. Stamp last sheet of estimate with the Utilities Section's approval stamp and date stamp. Obtain the signature of the Utilities Section Supervisor. (in his absence, the Right-of-Way Bureau Chief will sign).
5. If the utility company does not provide sufficient maps, have original map reproduced.

MAKING UP UTILITY AGREEMENT

1. After the estimate has been signed, make up the utility agreement as follows:
  - a. Two originals and one copy of the four page agreement. Check to see if project number and designation are listed accurately. Total estimated cost and cost to the State and company are obtained from the company's cost estimate.
  - b. Duplicate two copies of the cost estimate and cover letter.
  - c. Assemble two agreements, attaching copies of the cost estimate and letter.
2. Send two copies of the agreement to the company for signature. If relocation involves private right-of-way, request that right-of-way documents be furnished.

RECEIPT OF SIGNED UTILITY AGREEMENT FROM COMPANY

1. Record receipt on progress form, send updated copy of the progress form to Negotiations.
2. Submit agreement to Audit Unit for their review and approval.
3. When the agreement is returned from the Audit Unit, record the date on progress form.



4. If private right-of-way is involved, the Right-of-Way Attorney must give an opinion on the evidence furnished by the company.
  - a. Upon receipt of opinion, make out "Certificate-Utility Company Property Interest"; duplicate, attaching one copy to each utility agreement.
5. Stamp last sheet of the agreement with Utility Section approval stamp and date stamp. Submit to Supervisor - Utilities Section for signature.
6. Primary and Interstate agreements are now ready to be sent to the Federal Highway Administration for approval. Agreements on Secondary Highway projects are now ready for signature by the Chief, Right-of-Way Bureau, then send out the final distribution.

#### OBTAINING FEDERAL HIGHWAY ADMINISTRATION'S APPROVAL OF UTILITY AGREEMENTS

1. Make one copy of the original agreement. Duplicate all necessary documents to conform to attachments to the original agreements.
2. Send the photocopy complete with utility maps. The Federal Highway Administration will retain the photocopy, returning the signed original of the transmittal letter, and an original of their PR-1240 approval.

#### RECEIPT OF APPROVED UTILITY AGREEMENT FROM FEDERAL HIGHWAY ADMINISTRATION

1. Record receipt on progress form, stamp last sheet of agreement next to the "Authorized Signature" with "OK for Signature" stamp and initial.
2. Submit to Chief of Right-of-Way Bureau for his signature and final execution.
3. On return of the signed approvals, make two copies of the approved submittal letter returned by the FHWA with the agreements. Send one copy to our Plans Section and one copy to the Program Development Division.
4. Make eight copies of the original agreement and attachments. All should conform to the original agreement.
5. Distribute the utility agreement as follows:
  - A. Retain original for State files.
  - B. Duplicate original and one copy to utility company.
  - C. Three duplicate copies to the District Engineer.
  - D. One copy to Construction Bureau.
  - E. One copy to Audit Unit.
6. Record final distribution on progress form, send copy of updated form to Negotiations.

RESPONSIBILITY AND PROCEDURE FOR PREPARING UTILITY PLANS FOR  
UTILITIES SECTION BY PRECONSTRUCTION SECTION

1. Utility Involvements

- A. Utility Field Notes - It is the responsibility of the Preconstruction Section to obtain from the field the necessary field notes to prepare an accurate summary of the utility conflicts with highway construction. Therefore, the utility field notes for existing utilities should be as complete as possible. The omission of any utility information from the notes will result in the delay of processing future utility agreements and the needless expenditure of highway funds. The receipt of any field notes that are not considered adequate to present a clear, concise and complete picture of the utility situation for a given project should be returned to the appropriate District Engineer for further field investigation and survey work. All power and telephone poles, anchors, etc. must be "called out"; that is, the station they are opposite and the distance right or left of the centerline must be given. The location of all underground utilities, both plan and elevation, must be included in the field notes.

When power or telephone lines cross the highway centerline, the centerline station, number of wires and clearance above the present ground elevation must be given. This same information, with the exception of the clearance above the present ground elevation, must be furnished for all utilities which parallel the intended highway and which will possibly be in conflict with proposed highway construction.

All telephone, power poles, etc. should be labeled as to the company or private individuals owning them. This information is available from the local residents and from personnel of the various utility companies and cooperatives. In many instances, the utility-like facilities such as television cables, private telephone exchanges, and private power facilities will be encountered. Similar information must be provided for these facilities in order to process their adjustment as a right-of-way item.

When gas, water or sewer lines cross the centerline, the centerline station must be given, together with type of line, size, depth of pipe from natural ground line and the ownership of the line. Similar information must also be furnished for all of the underground facilities such as private water and sewer line service facilities, telephone cables, power cables, television cables, utility conduits, etc. If similar utility facilities belonging to two different companies are close together, each facility should be labeled as to the company owning it.

- B. Road Design Responsibility - To have all above and below existing topography shown on the road plans and cross-sections. The designer will coordinate any changes in alignment, additions and revisions to the road plans that would affect utilities with the right-of-way designer.

Right-of-Way Designer Responsibility - To see that the Utilities Section is furnished with accurate and complete utility maps. These maps must contain all of the information provided by current utility field notes. The designer will see that the utility maps conform with the latest road plans and any changes in alignment, additions and revisions to the road plans must be reflected therein.

NOTE: Any omissions or misinformation recorded on the road and utility maps will ultimately result in additional utility field inspections and thus delay in processing the utility agreement and cause needless expenditures of highway funds.

- C. Common means of processing utility conflicts - Utility maps are generally prepared by making "brownlines" from the right-of-way original maps. On these "brownlines", the information contained within the utility field notes is plotted and "called out". Poles, anchors, etc. located within the construction limits are to be circled to indicate to the Utilities Unit that they are in conflict with highway construction and will probably have to be adjusted. All utility facilities may not have been shown on the plan sheets when they are photographed to make right-of-way linens.

Therefore, a careful check will have to be made to see if additional topog notes have been received.

When the utility "brownlines" have been completed, the necessary prints should be made for the Utilities Section for the utility field inspection. These prints should not be made and forwarded to the Utilities Section until after the final road plan-in-hand inspection has been made and appropriate changes made to the road plans and utility plans. The number of utility prints to be furnished to the Utilities Section will depend on the number of utilities involved. In all cases, two prints will be needed for the District Engineers and two complete prints for the entire project will be needed by the Utilities Section.

Prints are also needed for each utility as follows:

|                 |          |
|-----------------|----------|
| Power Company   | 3 prints |
| Rural Electric  | 3 prints |
| Gas             | 3 prints |
| Telephone       | 3 prints |
| Rural Telephone | 3 prints |
| Water           | 3 prints |
| Sewer           | 3 prints |

In addition to prints of the utility plans, it is necessary to supply the Utilities Section with one complete print each of road plans, cross sections, and typical sections for the entire project. When new lighting or storm drains are proposed, one complete set of plans is needed. It is imperative that the location of all underground utilities be shown on the cross sections.

The right-of-way designer should forward the appropriate copies of utility maps, cross sections and road plans, together with a



memorandum of transmittal, to the Chief, Right-of-Way Bureau, attention Utilities Section for their use in making utility agreements.

1. Utility Relocation Contracts - The receipt of the utility plans by the Utilities Section will allow them to arrange for a field inspection with representatives of the utility company division and headquarters' Utilities personnel. At the time of this inspection, the method of adjusting the conflicting utility facilities will generally be determined. In some instances, the utility companies will request additional time to investigate the problems in order to advise the highway of the best solution. In any event, the Utilities Section will advise: (1) the Right-of-Way Section, regarding those facilities which must be handled as right-of-way items; (2) the Preconstruction Section, regarding those facilities which must be handled as construction items. The usual utility facilities will be handled as utility conflicts in accordance with FHPM 6-6-3-1 and amendments thereto. As indicated above, copies of the utility agreements, as they are concluded, will be on file in the Utilities Section for reference.

2. Project Contract Basis - There will be some utility facilities which will be adjusted as a contract item. These will ordinarily be associated with city or county owned water and sewer line facilities. Such items as fire hydrants, water turnoffs and meters can continue to be adjusted as construction items. Generally the Hydraulics Unit will be advised by the Utilities Section when it is necessary to adjust certain portions of utilities by the contract basis. The limits of these adjustments will be designated so that the Hydraulics designer can develop adequate plans and a cost estimate. One set of plans and an original copy of the cost estimate, as well as a transmittal memo, will be furnished to the Utilities Section by the road designer. The Utilities Section will then incorporate the plans and estimate into a special utility agreement between the utility company and the Department of Highways.

3. Unusual Situations - There will, undoubtedly, be instances where there will be doubt as to who should initiate the action for adjustment of utility-like facilities. In these cases, the road designer should arrange to meet with a representative of the Utilities Section so that the division of responsibility can be worked out and provision made to eliminate the conflict. As far as the handling of private water and sewer service line facilities and service connections are concerned, reference is made to Mr. J.R. Beckert's memorandum dated August 1, 1968, to Mr. Ed Miller. This letter is self-explanatory and clearly indicates the procedure which must be followed when adjusting conflicting private service line facilities on public rights-of-way and the replacement of nonconflicting private service line facilities on public right-of-way. In both instances, the Preconstruction Section has the responsibility of seeing that program documents and negotiations with private owners are concluded on the above procedures.



## UTILITIES AGREEMENT FORM

Form U-1 59  
Revised 11/85

This form is the standard utility agreement and is to be executed by authorized personnel of both parties, indicating that all the provisions contained therein have been complied with.

STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS  
UTILITIES AGREEMENT

FEDERAL-AID PROJECT (1) \_\_\_\_\_

An agreement between (2) \_\_\_\_\_  
and the Montana Department of Highways for changing and/or relocating utility  
facilities as required by the construction of a Federal-Aid Road Project.

The (3) \_\_\_\_\_, hereinafter referred  
to as the "Utility," and the Montana Department of Highways, hereinafter  
referred to as the "Department," hereby agree as follows:

1. That the Department plans to construct a highway project known as  
(4) \_\_\_\_\_ in (5) \_\_\_\_\_ County and designated as  
Federal-Aid Project (6) \_\_\_\_\_, with State and Federal-Aid  
highway funds.

2. That, due to the construction of this project, certain adjustments  
of the existing plant of the utility will have to be made where said plant now  
occupies the existing and/or proposed highway right-of-way. The utility will  
comply with the Federal Aid Highway Program Manual, 6-6-3-1 and 6-6-3-2 dated  
September 6, 1985, and subsequent amendments, and also the laws of the State  
of Montana.

3. That utility waives the hearing contemplated by Section 60-4-402,  
MCA.

4. The total estimated cost at this time is \$(7) \_\_\_\_\_. Proportionate participation is: STATE \$(8) \_\_\_\_\_ and UTILITY \$(9) \_\_\_\_\_. A copy of a cost estimate and plans indicating plant adjustments are hereby attached as "Exhibit A" and made a part of this agreement by this reference. The State's obligation under this agreement shall be in accordance with all applicable State and Federal laws in existence on the date of execution of this agreement. Should all, or any portion, of said laws be repealed or declared unconstitutional by a Court of competent jurisdiction, payment shall be made in accordance therewith.

5. That Utility will make any necessary adjustments in its plant as required by the proposed construction with its own forces, continuing contractor, or by competitive bidding all in accordance with the terms of current agreements.

6. That prior to Department authorization to proceed with the actual utility relocation, the utility will indicate in writing to the District Engineer whether company forces, or a contractor will be used to complete the required work, and provide any changes in estimated costs due to changes since date of agreement.

7. That contractor use by a utility must be supported by being awarded in accordance with practices followed by the utility in the accomplishment of the utility's non-highway related work.

8. That the Department will either reimburse the Utility for actual costs involved, or if the Agreement is concluded on a lump sum basis, the reimbursement will be paid on a lump sum amount, conforming with the requirements of Federal Aid Highway Program Manual 6-6-3-1 and amendments thereto. The billings are to be submitted in accordance with the provisions of said F.H.P.M.

9. That this agreement (10) concluded on a lump sum basis in accordance with the provisions of F.H.P.M. 6-6-3-1.

10. The Department reserves the right to terminate this agreement upon fifteen (15) days' written notice to the utility. If the Department does terminate this agreement, it shall reimburse utility the Department's share of all eligible costs the utility has incurred under this agreement to the date specified in the termination notice.

11. That all cost records of the Utility pertaining to this project will be subject to inspection at any time by representatives of the Department and the Federal Highway Administration. All such records shall be retained for a period of not less than three years from the date of final payment.

12. FEDERAL REGULATIONS provide that before participating reimbursement may be made to a state for the cost of work performed by a utility, the cost records and accounts of the utility may be audited by a representative of the Federal Highway Administration and/or the Department for the determination of actual, reimbursable costs to the State. It is the duty and a requirement of the utility to prepare and retain a complete cost record covering the entire cost of adjusting their plant. This record is to be kept by the utility for auditing purposes and final payment to the utility will be based on the approved audit.

13. To avoid delay in paying utility invoices and to expedite audit by Federal and State auditors, the following must be complied with:

(a) No actual work is to be performed under this agreement until written authority to proceed is received from the respective District Engineer.

(b) Accurate accounts of all salaries, material and equipment rental charges for the work performed, shall be kept at all times.

(c) When equipment is used on the work, reimbursement shall be in accordance with Section 10 of F.H.P.M. 6-6-3-1.

(d) All invoices from various suppliers covering materials used on the work should be kept for audit purposes in order to check bills rendered the State. When permanent stock record cards are kept on materials, these shall be adequate.

(e) New materials replacing existing materials will require an explanation for the necessity of new material replacement. Where credit for materials removed is not allowed, an explanation will be required.

(f) If practical, bills covering the actual cost of moving the plant are to be submitted to the State within 120 days after all work has been completed.

14. Utilities retained or relocated within the highway right-of-way shall comply with the Department Regulations Governing Occupancy of Highway Right-of-Way.

15. Work done on highway right-of-way with respect to the location of the facilities and in the manner which the facilities are installed or attached within the right-of-way must be approved by the District Engineer to insure that installation of the facilities will meet the "Standard Specifications for Road and Bridge Construction" as adopted by the Department.

(11) Addendum "A" is attached and by this reference made a part of this agreement.

(12) Due to the type of facilities provided for in this agreement, it is mutually agreed between the Utility Company and the State that no expired service life credit is due as provided for in Paragraph 10(h) 2, F.H.P.M. 6-6-3-1.

IN WITNESS WHEREOF, the parties hereto have affixed their respective corporate names and seals through their duly authorized officer, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_.

(13) \_\_\_\_\_

BY \_\_\_\_\_

STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS

BY \_\_\_\_\_  
Authorized Signature

\_\_\_\_:\_\_\_\_:\_\_\_\_



STATEMENT  
OF  
UTILITY PROPERTY INTEREST

of \_\_\_\_\_  
(Utility Name)

Highway Project No. \_\_\_\_\_ Highway Project Name \_\_\_\_\_

Highway Station \_\_\_\_\_ To Highway Station \_\_\_\_\_

1. Utility Description of Line Segment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The Utility claims to have acquired a property interest in the land occupied by its above-designated facility, the "damaging" or taking of which is compensable in eminent domain because of the following facts:

A. Written instrument

1. Recorded  
Vol: \_\_\_\_\_ Book: \_\_\_\_\_ Page: \_\_\_\_\_ County \_\_\_\_\_  
Unrecorded  
If copy not attached, please explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. No written instrument

1. Date of original occupancy \_\_\_\_\_  
Has this occupancy been continuous? Yes \_\_\_\_\_ No \_\_\_\_\_

C. Are said facilities visible? Yes \_\_\_\_\_ No \_\_\_\_\_

D. Any other facts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the above information is accurate as of \_\_\_\_\_  
(date)

THE \_\_\_\_\_  
Utility Company or Co-op  
BY \_\_\_\_\_  
\_\_\_\_\_  
Title

CERTIFICATE - UTILITY COMPANY PROPERTY INTEREST

Project Number:

Project Name:

Name of Utility:

Name or Description of Facilities:

In accordance with the requirements of the FHPM 6-6-3-1 dated September 6, 1985, I hereby certify that: From the facts supplied to the State of Montana Department of Highways by the said utility named-above, including statements, affidavits, representations by its agents, other written proof and from the opinions of the State's attorneys, based upon all of the evidence concerning the Utility's facilities in question which is on file with this Department, it is my determination that the said Utility's facilities here in question have a non-possessory property interest which is compensable in eminent domain under Montana law.

\_\_\_\_\_  
Supervisor - Utilities Section

\_\_\_\_\_  
Date

MONTANA DEPARTMENT OF HIGHWAYS  
Helena, Montana 59620

MEMORANDUM:

TO: Plans Section

FROM: Utilities Section

RE: \_\_\_\_\_ Estimate for \_\_\_\_\_  
Ref: 65-GLA

DATE:

We have estimated that the following amount will be required for the cost of relocating utilities on the above project:

POWER \_\_\_\_\_

POWER \_\_\_\_\_

TELEPHONE \_\_\_\_\_

TELEPHONE \_\_\_\_\_

GAS \_\_\_\_\_

OIL \_\_\_\_\_

WATER \_\_\_\_\_

SEWER \_\_\_\_\_

RAILROADS \_\_\_\_\_

STREET LIGHTS \_\_\_\_\_

MISCELLANEOUS \_\_\_\_\_

TOTAL UTILITY RELOCATION COST ESTIMATED = \$ \_\_\_\_\_ of which  
\_\_\_\_\_ % is state's share.

FOR PROGRAMMING I.C. THE ESTIMATED  
STATE COST INCLUDING 15% IS \$ \_\_\_\_\_

(check one below)

/\_\_\_/ There are no utility relocations on this project subject to The Utility Siting Act.

/\_\_\_/ There are utility relocations on this project which are subject to The Utility Siting Act as follows:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Supervisor - Utilities Section

cc: Ass't. Suprv. - Util. Sec. - Utilities

CONSULTANT ENGINEERING ESTIMATE - EXAMPLE ONLY

1. Review Conference with \_\_\_\_\_ and MDOH representatives.  
Prepare and submit cost estimate and related data.

|   |               |
|---|---------------|
| Designer - estimated _____ hours at \$ _____ .....        | Amount        |
| Office Engineer - estimated _____ hours at \$ _____ ..... | Amount        |
| Transportation - estimated .....                          | <u>Amount</u> |
| SUBTOTAL  | Amount        |

2. Preparation of Plans, Specifications and Bidding Documents for obtaining bids for contractors, obtaining approval of these documents from \_\_\_\_\_, Montana, State of Montana Department of Highways and Federal Highway Administration.

|   |               |
|---|---------------|
| Office Engineer - estimated _____ hours at \$ _____ ..... | Amount        |
| Designer - estimated _____ hours at \$ _____ .....        | Amount        |
| Draftsman - estimated _____ hours at \$ _____ .....       | Amount        |
| Typing, etc. - estimated _____ hours at \$ _____ .....    | Amount        |
| Transportation - estimated .....                          | Amount        |
| Reproduction Costs - estimated .....                      | <u>Amount</u> |
| SUBTOTAL  | Amount        |

3. Review work in field with interested contractors

|   |               |
|---|---------------|
| Project Engineer - estimated _____ hours at \$ _____ .....  | Amount        |
| Transportation - estimated miles _____ at _____ per mile .. | <u>Amount</u> |
| SUBTOTAL  | Amount        |

4. Receipt of bids and submission of cost data to State of Montana Department of Highways and Federal Highway Administration.

|   |               |
|---|---------------|
| Office Engineer - estimated _____ hours at \$ _____ ..... | Amount        |
| Typing, etc. - estimated _____ hours at \$ _____ .....    | <u>Amount</u> |
| SUBTOTAL  | Amount        |

5. Preparation of contract documents

|   |               |
|---|---------------|
| Office Engineer - estimated _____ hours at \$ _____ ..... | Amount        |
| Typing, etc. - estimated _____ hours at \$ _____ .....    | <u>Amount</u> |
| SUBTOTAL  | Amount        |



6. Construction Supervision and Staking

Staking Crew - estimated (3 men) \_\_\_\_\_ hours at \$ \_\_\_\_\_ .... Amount  
Project Engineer - estimated \_\_\_\_\_ hours at \$ \_\_\_\_\_ ..... Amount  
Transportation - estimated miles \_\_\_\_\_ at \_\_\_\_\_ per mile .. Amount

SUBTOTAL Amount

7. Compaction Tests on Backfill

Laboratory test for standard proctor - estimated ..... Amount  
Field compaction tests - estimated \_\_\_\_\_ at \$ \_\_\_\_\_ ..... Amount  
Transportation - estimated miles \_\_\_\_\_ at \$ \_\_\_\_\_ per mile .. Amount

SUBTOTAL Amount

8. Preparation to final estimates including construction and engineering costs to submit to the Federal Highway Administration and the State of Montana, Department of Highways.

Office Engineer - estimated \_\_\_\_\_ hours at \$ \_\_\_\_\_ ..... Amount  
Typing - estimated \_\_\_\_\_ hours at \$ \_\_\_\_\_ ..... Amount

SUBTOTAL Amount

TOTAL Amount

## UTILITY RELOCATION ESTIMATE FORMAT:

All estimating and billing will be in conformance with, and limited by, Federal-Aid Highway Program Manual (FHPM) 6-6-3-1&2 and state policy and procedures.

This format is attached for the convenience of the utility. Its use, in its entirety, is recommended, but the following information must be included in the estimate where applicable. If this format is followed, use only those items to be included in the billing, in a manner consistent with Company accounting procedures. However, if your final billing will be inconsistent with the method shown below, then your estimate should be of the same format as your billing.

Note: When your overhead percentages are included in the cost estimate, they should be based on an average annual rate.

### A. Preliminary Costs (6-6-3-1, Par. 6)

#### 1. Engineering

|                           |      |   |               |   |        |
|---------------------------|------|---|---------------|---|--------|
| Labor                     | Rate | x | Hours         | = | Amount |
| Payroll Additives         | Rate | x | Direct Labor  | = | Amount |
| Equipment                 | Rate | x | Miles or Hrs. | = | Amount |
| Other (Itemize in Detail) |      |   |               | = | Amount |

#### 2. Right-of-Way (6-6-3-1, Par. 7)

Description

### B. Construction Costs

#### 1. Labor (6-6-3-1, Par. 10.b)

|                        |      |   |       |   |        |
|------------------------|------|---|-------|---|--------|
| General Classification | Rate | x | Hours | = | Amount |
|------------------------|------|---|-------|---|--------|

#### 2. Materials (6-6-3-1, Par. 10.e)

|            |   |          |   |        |
|------------|---|----------|---|--------|
| Item Price | x | Quantity | = | Amount |
|------------|---|----------|---|--------|

#### 3. Overhead (6-6-3-1, Par. 10.d) Percentage = Amount

(Method used to determine the rate)

Only items regularly used by the Utility will be acceptable.

#### 4. Equipment Costs (6-6-3-1, Par. 10.f)

|           |   |       |   |        |
|-----------|---|-------|---|--------|
| Item Rate | x | Units | = | Amount |
|-----------|---|-------|---|--------|

(Method used to determine the rate)

If actual costs are not recorded, rental rates require prior approval.

C. Removal Costs

1. Labor (6-6-3-1, Par. 10.b)

|                                       |      |   |       |   |        |
|---------------------------------------|------|---|-------|---|--------|
| General Classification<br>(List Each) | Rate | x | Hours | = | Amount |
|---------------------------------------|------|---|-------|---|--------|

2. Equipment Costs (6-6-3-1, Par. 10.f)

|      |      |  |   |       |   |        |
|------|------|--|---|-------|---|--------|
| Item | Rate |  | x | Units | = | Amount |
|------|------|--|---|-------|---|--------|

3. Salvage Value (6-6-3-1, Par. 10.e)

|      |       |   |          |   |                    |
|------|-------|---|----------|---|--------------------|
| Item | Price | x | Quantity | = | Amount<br>(Credit) |
|------|-------|---|----------|---|--------------------|

All salvage should be inspected by the State's representative before disposal.

D. Related Costs

1. Labor (6-6-3-1, Par. 10.b)

|                        |      |   |       |   |        |
|------------------------|------|---|-------|---|--------|
| General Classification | Rate | x | Hours | = | Amount |
|------------------------|------|---|-------|---|--------|

2. Equipment Costs (6-6-3-1, Par. 10.f)

|      |      |   |       |   |        |
|------|------|---|-------|---|--------|
| Item | Rate | x | Units | = | Amount |
|------|------|---|-------|---|--------|

(Method Used to Determine the Rate)

If actual costs are not recorded, rental rates require prior approval.

E. Summary of Charges & Credits

|                       |   |        |
|-----------------------|---|--------|
| A. Preliminary Costs  | = | Amount |
| B. Construction Costs | = | Amount |
| C. Removal Costs      | = | Amount |
| D. Related Costs      | = | Amount |

|                    |   |        |
|--------------------|---|--------|
| Cost of Relocation | = | Amount |
|--------------------|---|--------|

|   |   |        |
|---|---|--------|
| Less Expired Service Life (see F.4 below) | = | Amount |
|---|---|--------|

|                                 |   |        |
|---------------------------------|---|--------|
| Less Betterment (see F.5 below) | = | Amount |
|---------------------------------|---|--------|

|                             |   |        |
|-----------------------------|---|--------|
| Adjusted Cost of Relocation | = | Amount |
|-----------------------------|---|--------|

Allocation of Costs

|         |   |  |                    |   |        |
|---------|---|--|--------------------|---|--------|
| Utility | - | $\frac{\text{Non-Reimb. Facilities}}{\text{No. Relocated Facilities}}$ | or % of Adj. Total | = | Amount |
|---------|---|--|--------------------|---|--------|

|       |   |  |                    |   |        |
|-------|---|--|--------------------|---|--------|
| State | - | $\frac{\text{Reimb. Facilities}}{\text{No. Relocated Facilities}}$ | or % of Adj. Total | = | Amount |
|-------|---|--|--------------------|---|--------|

F. Additional Information Required

1. Engineering will be done by:

Company Forces \_\_\_\_\_ (6-6-3-1, Par. 10.b)

Consultant Engineer \_\_\_\_\_ (6-6-3-1, Par. 10.b)

Consultant Engineer's fee based on a percentage of the total cost will not be eligible. Such fees must be based on a lump sum or unit price basis. (6-6-3-1, Par. 10.b)

2. Construction will be done by:

Company Forces \_\_\_\_\_

Contract \_\_\_\_\_

3. Work done by contract must comply with 6-6-3-1, Par. 9. This requires that the work be let to the lowest qualified bidder. If the contract is let without bid, it must be shown that the best interests of the State are being served and at an amount not to exceed \$3,000.

4. Therefore, credit for accrued depreciation is not required as per FHPM 6-6-3-1, Par. 10.h).

5. This work (will) (will not) result in a betterment to the Company's system. Betterment being an upgrading or increase in functional capacity not attributable to the highway construction, see (6-6-3-1, Par. 10.h). If a betterment will result, explain below.

Amount

6. All costs which are reimbursable must be kept in separate work order files. All such records must be retained by the utility for a period of not less than three (3) years.



7. If the total cost of the reimbursable portion is less than \$25,000, a detailed estimate as outlined may be submitted with a request for a lump sum payment per \_\_\_\_\_ (6-6-3-1, Par. 8).

Once this estimate is approved, payment will be made in the approved amount upon completion of the project and submission of a statement of costs showing beginning and completion dates of the work. This method requires no itemized billing. It is recommended for small jobs and where keeping records is a problem.

8. Bill will be based on:

Actual cost \_\_\_\_\_ in accordance with FHPM 6-6-3-1.

Lump Sum Basis \_\_\_\_\_ in accordance with FHPM 6-6-3-1.

Bring total estimated costs forward:

Total \_\_\_\_\_

This form covers only the basic costs. For any additional information, please refer to FHPM 6-6-3-1&2, or contact the Utility Section, Helena.

\_\_\_\_\_  
(Signature of Authorized Company  
Representative)

## UTILITY RELOCATION BILLING FORMAT

The billing should include the following:

1. Date and subject of State's authorization letter for this work.
2. The description and site of project.
3. Federal-aid Project No., if any.
4. Date on which relocation work started and was completed.
5. Date on which first and last cost was incurred.
6. Location where records and accounts can be audited.
7. The billing should follow the same general outline as the estimate. List each item of cost by unit, price and total cost, as shown on estimate format which will permit a comparison between the estimate without prior approval from the State.
8. If a lump sum estimate was approved, the billing need only identify the project, list the beginning and completion dates of the work, and show the total amount due. Note: A lump sum is usually not the best approach on medium to large projects - use an actual cost basis.

For any additional information, contact the District Utility Agent in your area.

## PAYMENT FOR RELOCATION OF UTILITY FACILITIES

### General Rules

Utility facilities which occupy a publicly owned right-of-way and must be relocated as a result of highway construction will be paid for as follows:

75% of the cost, highway funds

25% of the cost, owner of utility

1. "Utility" as used in this area includes only utilities which are occupying a public right-of-way, located thereon as a result of an old 1893 statute which allows certain utility facilities to occupy public rights-of-way. The term "Utility" has previously been interpreted not to include television cable lines, pipelines, or telephone booths, etc.
2. In some cases, utilities or private pipelines may occupy highway right-of-way on the basis of a prior property right which has never been cleared. In this case, such lines must be relocated at 100% highway cost because they are on the ground as a matter of basic property right.
3. In some cases, pipelines, private water lines, and other utilities or pseudo-utilities occupy public right-of-way on the basis of revocable permit or without any right to be there whatever. No payment for relocation of these facilities is required. They are notified that their right to occupy the right-of-way is terminated and ordinarily given the option of relocating in a manner acceptable to the highway agency and at their sole cost, or removing their facilities completely from our property.
4. Utilities such as sewer or water service which cities or other governmental units provide for the residents of a given area, normally for a charge, are legally located the same as private utilities within the meaning of the relocation statute and the 25% contribution toward the relocation cost is required by law from such local governmental bodies in the same way it is required from a private utility.
5. Utilities or other facilities which occupy private right-of-way or right-of-way other than public street or highway rights-of-way are handled on a basis of the existence or lack of valid property right. The relocation statute does not apply to these properties.

Listed above are a few general rules and a few exceptions in the area of payment for utility relocations. There are a number of relatively fine legal distinctions involved in this area. Please refer any questions or doubtful cases involving utility relocations and compensations therefore to the Right-of-Way Bureau, Helena.

August 19, 1988

Locked Gates for  
Utility Access  
From Interstate  
Ref: 60-JRR

Montana Utility Companies

Gentlemen:

Some misunderstanding seems to exist regarding provision for utility access by means of locked gates along the controlled access Interstate System in Montana. Present regulations do allow for the provision of such access where it can be shown that it is the only reasonable means of maintaining the utility facilities in question. It is our hope that by communicating more information on this subject, we can work together more effectively so that the ultimate product in terms of both highway and utility facilities can be used and operated safely, efficiently, and in conformance with the requirements which govern access from the Interstate main line.

At the time utility relocation is being considered in connection with an Interstate project, consideration should be given to availability of access for maintenance of utility facilities. In most cases, the facilities are accessible from other public roads or the terrain is not rough enough to prevent vehicles from being driven to the line. In a few cases, especially in the mountainous area of western Montana, extremely rough terrain and lack of a usable local road network creates situations where utility facilities cannot reasonably be maintained without access being provided from the Interstate main line. The locked gate for utility access was intended to meet this kind of need.

The Montana Highway Commission is willing to provide these locked gate accesses where it can be demonstrated that there is no other reasonable means of access to the utility facilities. In order to provide these accesses, the need for them should be recognized and they should be requested sufficiently in advance of our contracting the highway project for us to put them on our plans and obtain approval of them. Since Washington, D.C. level approval is required for any change in the access control of a Federal-aid Interstate Project after the project has been let to contract, it is most desirable that these needs be recognized and included in our planning. Post contract approval of these facilities requires a great deal of time and explanation, and is quite difficult to obtain. Our Right-of-Way Procedure Memorandum on this subject dated September 1, 1967, was intended to instruct our field personnel as to what would be required to make application to the Bureau of Public Roads for approval of locked gate utility access after the project had gone to contract. Although some of the requirements involved are the same, it was not intended that this procedure memorandum apply to the normal case where a utility company requests locked gate access prior to contract.

Another thing which we must have in order to properly support our request for the locked gate access is documentation which demonstrates that no other feasible means of access to the utility facilities is available and that the locked gate access requested is the only feasible solution to the access problem. We have found that a statement to this effect is ordinarily not sufficient. The presentation to support a locked gate access must, as a minimum, include a sufficient explanation of the topography, lack of other public road access, natural barriers, and other factors which demonstrate that



the locked gate access requested is the only reasonable way of obtaining access to the facilities. As is true with any other presentation designed to convince a third party who may not be familiar with the area or factors being described, maps, sketches, and photographs can help greatly in conveying what we are trying to communicate. The approximate frequency of expected use, and the type vehicles expected to utilize the access point are other factors which should be covered.

To discourage improper public use of these points, a regular highway approach is not built. The location is selected where a shallow ditch or daylight section enables easy vehicular access from the roadway shoulder to the locked gate. Where a utility company requests a locked gate, the sketch they submit should show the approximate highway station, or the limits of the area where the access point will be of greatest benefit to the utility company.

Our utility personnel will cooperate with you by providing information regarding highway access planning, and are available to give their assistance or suggestions in connection with preparation of the information outlined above.

Sincerely,

JACK R. RICKER  
Chief, Right-of-Way Bureau

LOCKED GATE REQUEST  
FOR UTILITY ACCESS FROM INTERSTATE

Date \_\_\_\_\_  
Project No. \_\_\_\_\_  
Ref: 65-GLA \_\_\_\_\_

Jack R. Ricker, Chief  
Right-of-Way Bureau  
Department of Highways  
2701 Prospect Avenue  
Helena, MT 59620

Please consider this form, as checked below, a formal request for a locked gate access for our facility on a proposed interstate highway.

1. Description of utility to be serviced by locked gate: \_\_\_\_\_
2. Largest type of service vehicle used: \_\_\_\_\_
3. Number of times per year gate to be used: \_\_\_\_\_
4. Stationing and location of proposed gate: \_\_\_\_\_
5. Is proposed gate "at-grade"? Yes \_\_\_\_\_ No \_\_\_\_\_
6. Could facility be moved to eliminate the need for a locked gate? Yes \_\_\_\_\_ No \_\_\_\_\_
7. If yes, at what cost? \_\_\_\_\_
8. How far away is nearest service or frontage road? \_\_\_\_\_ (miles)
9. Are further details listed on a sheet other than this form? Yes \_\_\_\_\_ No \_\_\_\_\_
10. If yes, see attached details.

UTILITY COMPANY \_\_\_\_\_

By \_\_\_\_\_  
(Title)

\*\*\*\*\*

FOR STATE HIGHWAY USE ONLY:

What are the physical barriers against building an access service trail in all directions from the utility area? List cost of access roads from nearest point.

|              |          |
|--------------|----------|
| AHEAD: _____ | \$ _____ |
| BACK: _____  | \$ _____ |
| LEFT: _____  | \$ _____ |
| RIGHT: _____ | \$ _____ |

Included are: Utility Plans \_\_\_\_\_ Road Plans \_\_\_\_\_ Cross Sections \_\_\_\_\_ Aerial Photo \_\_\_\_\_  
Translite \_\_\_\_\_ Sketch \_\_\_\_\_ Company Map \_\_\_\_\_ Other \_\_\_\_\_

C O M M O N   U S E   A G R E E M E N T

(To Be Completed by Department of Highways)

Highway Project No. \_\_\_\_\_  
Designation \_\_\_\_\_  
Highway Mtce. Sec. No. \_\_\_\_\_  
\_\_\_\_\_

County \_\_\_\_\_  
Sec. \_\_\_\_\_, Twp. \_\_\_\_\_, Rge. \_\_\_\_\_  
Fed-aid Route No. \_\_\_\_\_

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by and between \_\_\_\_\_, hereinafter called  
COMPANY and the STATE OF MONTANA, acting by and through its DEPARTMENT OF HIGHWAYS,  
hereinafter called STATE.

WITNESSETH

WHEREAS, COMPANY is the owner of certain easements or in possession of certain  
right-of-way, hereinafter referred to as COMPANY'S EASEMENT, and described as  
follows:

and

WHEREAS, STATE has acquired certain real property in fee simple for highway  
purposes in the vicinity of \_\_\_\_\_, County of \_\_\_\_\_,  
on \_\_\_\_\_ Highway Project Number \_\_\_\_\_,  
between approximate Highway Stations numbered \_\_\_\_\_ and \_\_\_\_\_  
hereinafter referred to as HIGHWAY RIGHT-OF-WAY, and

WHEREAS HIGHWAY RIGHT-OF-WAY occupies and bounds a portion of COMPANY'S EASEMENT  
and is therefore subject to that portion of said EASEMENT which is hereinafter  
referred to as AREA OF COMMON USE and particularly described as follows:

WHEREAS, STATE and COMPANY agree that it is in the mutual interest of both  
parties hereto to identify the mutual respective rights and obligations of the  
parties in order to avoid conflict in the future exercise thereof.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, STATE and COMPANY hereby agree as follows:

1. COMPANY hereby consents to the construction, reconstruction, maintenance and use by STATE of the above referred to Highway Project over, along and upon COMPANY'S EASEMENT in the AREA OF COMMON USE subject to the terms and conditions herein contained.
2. STATE acknowledges COMPANY'S title to COMPANY'S EASEMENT in said AREA OF COMMON USE and the priority of COMPANY'S title over the title of STATE therein. COMPANY reserves the right and shall continue to have an easement to use said AREA OF COMMON USE in common with the public use of said highway for all of the purposes for which COMPANY'S EASEMENT was acquired, without any further agreement or permission from STATE.
3. In the event of major repair, reconstruction or removal of any of COMPANY'S facilities located within the right-of-way of said Highway Project whereby COMPANY deems it necessary to enter upon the portions of the right-of-way of the said Highway, COMPANY shall except in case of emergency, give advance notice to the STATE'S District Engineer where performance of such work may endanger or significantly interfere with highway traffic. In all cases, COMPANY shall make adequate provision for the protection of the traveling public.
4. This policy applies to all portions of said Highway Project except controlled access portions of the Interstate system. Construction work within controlled access limits is allowed within access control limits only with prior written permission.
5. In the event that the future use of said highway shall at any time or times necessitate a relocation, reconstruction or removal of any of COMPANY'S facilities located in said AREA OF COMMON USE, STATE shall notify COMPANY in writing of such necessity and agree to reimburse COMPANY on demand for its costs incurred in complying with such notice. COMPANY will provide STATE with plans of its proposed relocation and an estimate of the cost thereof; and, upon approval thereof by STATE, COMPANY will promptly proceed to effect such relocation, reconstruction or removal.
6. In the event any of COMPANY'S facilities will be located outside of said AREA OF COMMON USE, STATE shall: (1) enter into the standard form of common use agreement covering the new location of COMPANY'S EASEMENT within the highway right-of-way, (2) provide a good and sufficient easement for COMPANY within the highway right-of-way or across STATE owned property if necessary to replace COMPANY'S EASEMENT or any part thereof, or (3) reimburse COMPANY for all costs incurred to acquire the necessary easement for new right-of-way for its facilities.
7. Except as expressly set forth herein, this agreement shall not in any way alter, modify or terminate any provision of COMPANY'S EASEMENT. STATE and COMPANY shall mutually occupy and use AREA OF COMMON USE in such a manner as not to interfere unreasonably with the rights of the other party. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which COMPANY or STATE may now have or may hereafter acquire due to the construction of additional facilities or the alteration of existing facilities by either STATE or COMPANY in such a manner as to cause an unreasonable interference with the use of said AREA OF COMMON USE by the other party.



8. This AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed, in duplicate, by their respective officials thereto duly authorized.

STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS

By \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF MONTANA )  
COUNTY OF \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before the undersigned Notary Public for the State of Montana, personally appeared \_\_\_\_\_, for the Department of Highways and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Utility, Cooperative or Common Carrier

By \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before the undersigned Notary Public for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, for the corporation which executed the foregoing and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

DEPARTMENT OF HIGHWAYS  
RIGHT-OF-WAY BUREAU  
HELENA, MONTANA  
REF: 65-GLA

PROCEDURE MEMORANDUM NO. 152  
UTILITIES  
PROCESSING COMMON USE AGREEMENT  
R/W FORM 133  
NOVEMBER 4, 1985

EFFECTIVE: JULY 8, 1985  
REFERENCE: ADMINISTRATIVE RULES OF MONTANA 18.7.211

The following procedures are to be used when processing Common Use Agreements (R/W Form 133).

When the District Utility Agent determines that a Common Use Agreement is required, he will send two (2) copies of Form R/W 133 to the utility company for completion and signatures.

When the signed forms are returned to the District Utility Agent, he should send both copies to the Utility Section Supervisor's office in Helena.

The Utility Supervisor will examine the forms, and if found acceptable, he will submit them to the Chief R/W Bureau for signature.

When the agreement is fully executed, it will be returned to the District Utility Agent for distribution as follows:

- One (1) original signed form to the Utility Company
- One (1) original to District Files

Following are some examples that have been established covering when Common Use Agreements should be processed:

1. A Common Use Agreement should be processed for a utility that has an easement which it continues to occupy after the highway is constructed. This applies, whether or not, the utility is untouched, raised or lowered so long as there is no change in the alignment to throw the facility off of their original easement area (See sketch #1).
2. When a highway crossing of a utility requires the utility to relocate off of its easement area and the utility relocates on highway right of way where it crosses the right of way, but occupies private right of way longitudinally along the highway right of way to reconnect to its existing facility, a Common Use Agreement should be processed for only that portion of occupancy on highway right of way. (See sketch #2).
3. Same as in number 2 above, except that longitudinal location is on highway right of way instead of private. A Common Use Agreement should be processed for the crossing and a form R/W 131 used for the longitudinal occupancy (See sketch #3).

PROCEDURE MEMORANDUM NO. 152  
PROCESSING COMMON USE AGREEMENT  
R/W FORM 133  
PAGE 2

All other situations should be covered by Form R/W 131, or an encroachment permit, as in the case of attachment to structures.

Should there be any questions concerning this matter, please contact the Utilities Section.

By:

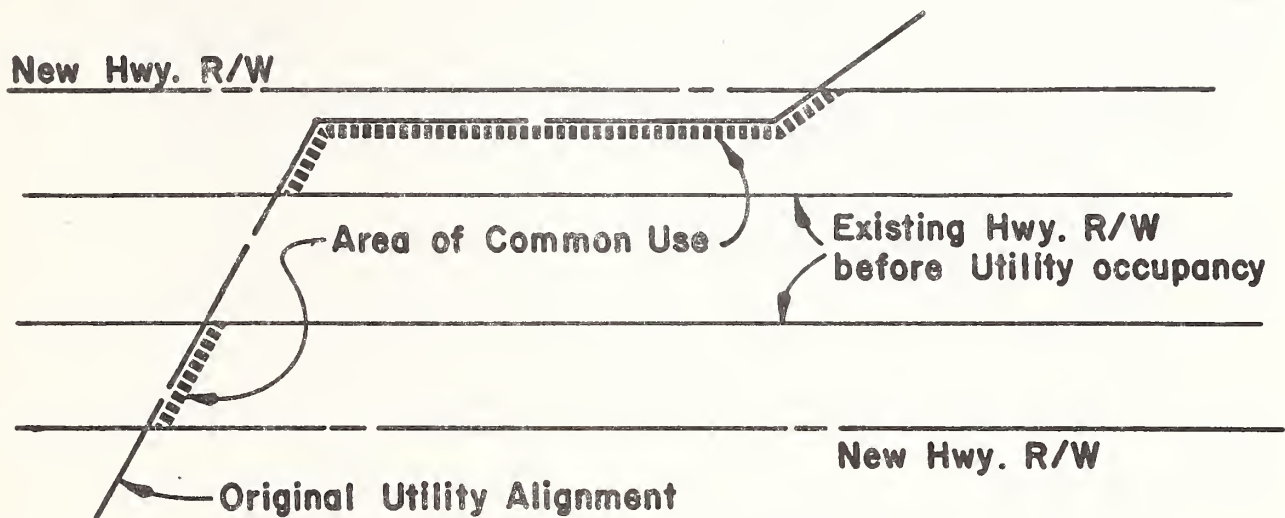


Jack R. Ricker, Chief  
Right-of-Way Bureau

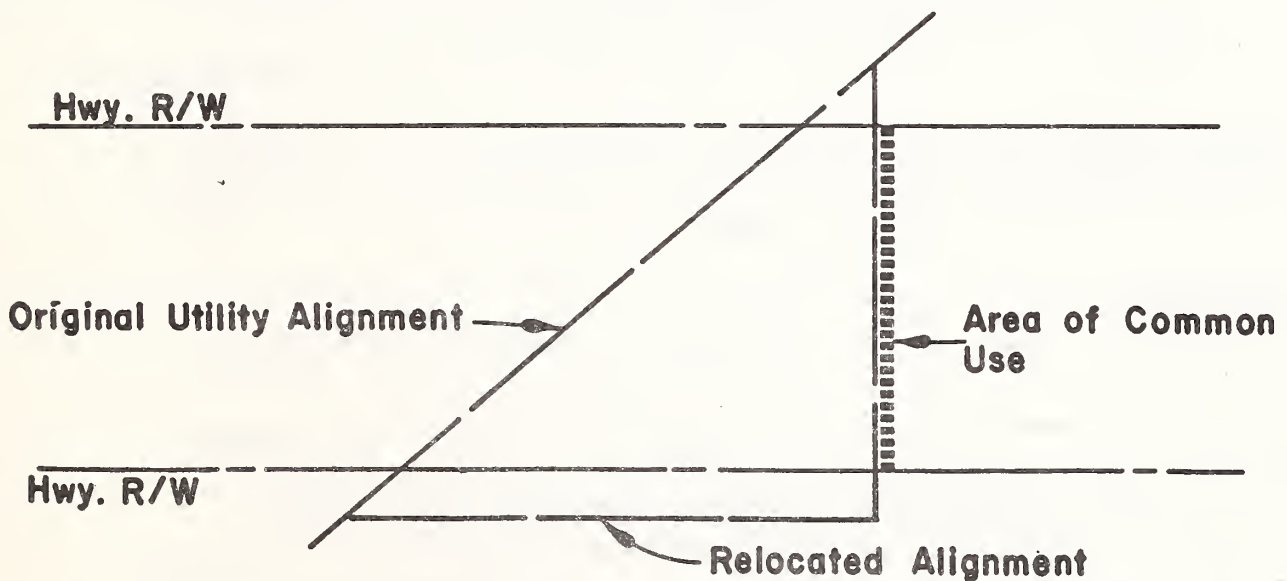
JRR:GLA:m1:231/B

# AREAS OF COMMON USE

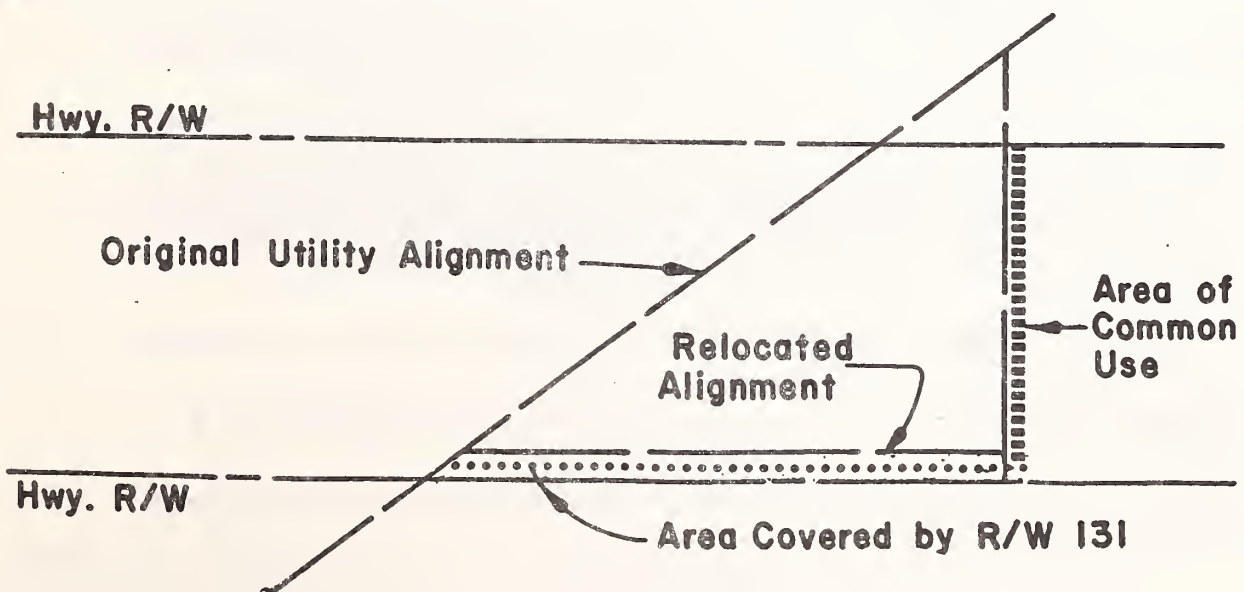
SKETCH 1



SKETCH 2



SKETCH 3





UTILITY OCCUPANCY  
AND LOCATION AGREEMENT

Date Submitted \_\_\_\_\_ Agreement No. \_\_\_\_\_  
 Date Approved \_\_\_\_\_ Hwy. Proj. No. \_\_\_\_\_  
 Applicant/Utility: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 \_\_\_\_\_

Requests an agreement to occupy the following location on Highway Right-of-Way for:

1. Overhead \_\_\_\_\_ facilities
2. Underground \_\_\_\_\_ facilities
3. Other \_\_\_\_\_

Location:

1. Highway Name/Route No. \_\_\_\_\_
2. Longitudinal: \_\_\_\_\_ Feet from N - S - E - W R/W Line From Milepost \_\_\_\_\_ to  
Milepost \_\_\_\_\_
3. Centerline Crossing(s) at Milepost \_\_\_\_\_
4. Downguys not in parallel with the roadway at Milepost \_\_\_\_\_
5. Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ County \_\_\_\_\_

Construction Prints

Prints are attached and incorporated by this reference and indicate the above information in detail.  
 Distances from R/W Line and Centerline must be provided.

Traffic Control

The applicable minimum signing standard attached must be adhered to, unless additional signs are required.

If work is not commenced within 180 calendar days of the Agreement Approval date, this agreement is automatically void. Expired agreements may be re-approved by the District Engineer using Exhibit "A" unless resubmission of a new agreement by the utility is necessary due to extensive changes.

It is necessary that utility notify the District Utility agent in \_\_\_\_\_ Ph. \_\_\_\_\_ at least 48 hours in advance of any work under this agreement, except for emergency situations. After completing the work, applicant will fill out the Form R/W 131-B (attached) and return for acceptance.

This Agreement is subject to compliance with the provisions of the Administrative Rules of Montana 18.7.201 through 18.7.241 including but are not limited to the following conditions and requirements:

1. The State shall not be liable to the general public for any injury to or death of any person whomsoever, or for the loss of or damage to property of any kind or nature to whomsoever belonging when such injury, death, loss or damage arises out of or results from the construction, maintenance, or repair of existing or future utility facilities located within the highway right-of-way, or the installation or operation of such utility facilities within the highway right-of-way, regardless of whether or not the Department has expressed or implied approval of the construction, maintenance, repair, installation or operation of such facilities within the highway right-of-way.
2. If the work under this agreement interferes with the drainage of the area affected, the utility agrees to resolve the problem at its own expense.
3. Any Highway Department signs, etc., that are removed to allow the utility's installation shall be replaced on the same day as per Highway Department specifications.
4. All closures, markers or other identification are to be placed near the outer edge of the right-of-way or next to the right-of-way fence.

5. All areas that are excavated will be recompactd, and disturbed areas restored to original like condition.

6. Requirements:

(A) Overhead Installations

- (1) Vertical clearance shall meet the standards of the National Electrical Safety Codes.
- (2) Location will be at or near right-of-way line. Where right-of-way width and terrain features permit, the facilities shall be located not less than 30' from edge of traveled way. In urban areas the facilities will be located as far as practicable from the edge of pavement and no closer than 2' behind curb line.
- (3) All downguys installed on new or added to existing structures not in parallel with the roadway must have the location called out on the permit. If the anchor is allowed within the 30' clear zone, it must be constructed, located, or protected such that it will not be a roadside hazard.

(B) Underground Pipeline Installations

- (1) Conform to all applicable National and State Codes. Location: longitudinal will be located as near the R/W line as practicable.
- (2) Bored and Pushed Crossings: will be
  - (a) 30" below adjacent ditches or ground line (42" if reasonably possible).
  - (b) no push pits closer than 10' from edge of asphalt.
- (3) Open Trenching: on existing highways requires a special traffic control plan as per Exhibit "B" and will be considered only when pushing and boring fails.

(C) Underground Cable

- (1) Vertical Depth: Per N.E.S.C. - Minimum Electrical 30" - Communications 24" (30" if reasonably possible). All crossings 42" below adjacent ditches or ground line if reasonably possible.
- (2) Location:
  - (a) First cable within 5' of unoccupied R/W from the R/W line.
  - (b) Any additional cable - 3' or less from existing cable.
  - (c) Four locations maximum per utility.
  - (d) Crossing will be as near as possible to right angles.
  - (e) No underground longitudinal occupancy under any pavement or surfacing courses except installations in curbed sections or built up areas may be permitted provided there are no border strips available for the installation.
  - (f) For hardship cases see Administrative Rules of Montana 18.7.224.

7. The approval is granted with the understanding the installation is made according to your plans as submitted. Field revisions may be made only with approved modification of this agreement on Exhibit "A." If the installation is not made as shown on the plans or approved amendment, the Department at its discretion, may require the removal of the installation.

8 Any attachments to this agreement, including but not limited to Exhibit "A," "B," "C," and Right-of-Way Form RW 131-B are hereby incorporated by reference.

9. The above-stated requirements are generally mandatory. Under unusual circumstances, deviations may be permitted, but the justification and the extent of the deviations must be specifically stated in Exhibit "A." Deviations must be approved by the District Engineer or his designee.

Utility \_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_  
District Engineer

EXHIBIT "A"

Requested exceptions to or deviations from R/W Form 131 along with justification of each by item:

1.

2.

3.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_ Disapproved \_\_\_\_\_ Approved

By: \_\_\_\_\_

District Engineer

-----  
EXPIRED AGREEMENT EXTENSION REQUEST

By: \_\_\_\_\_

Title

New Agreement Approval Date: \_\_\_\_\_

Approved By: \_\_\_\_\_

District Engineer

EXHIBIT "B"

OPEN TRENCH REQUIREMENTS

Trenching through the existing highway may be permitted only when pushing or boring have failed a minimum of three attempts or it can be proven it is impractical to push or bore to the satisfaction of the District Engineer. The following special requirements must be met if trenching is allowed.

1. Although the approved R/W 131 covering the location of the utility provides for minimum signing standards, the open trenching of a public roadway is of such importance to require the utility to submit a traffic control plan for Department approval. No work is to be done by the utility until the Department has approved such a plan covering maintaining or detouring of traffic during construction.
2. The Department will be notified 48 hours in advance of the work starting and 12 hours notice shall be given if this date is changed, except for emergency conditions where notice will be given as soon as possible.
3. Excavation - Asphaltic surfacing shall be square cut prior to excavating with some type of cutting tool to a minimum distance of one foot beyond all trench excavation. Square cutting may be required again after backfilling operations if the existing asphalt section has been separated from the base course during construction.

If possible the trench should be situated so the longitudinal joints will be at the center of the driving lane or at the outer edge of the driving lane. Longitudinal joints or manholes should not be located such that they will be in the wheel path.

Sidewalks are to be cut or sawed only at the joints. No portion of a sidewalk is to be undercut by excavation. If under cut, the sidewalk must be removed and replaced.

4. Backfilling - See Exhibit "C." Since backfilling and compaction of the roadway trench is of paramount importance, the Department will have the right to inspect all facilities and may require that an outside specialist be called in to take soil density tests. All costs will be paid by the utility.
5. Resurfacing - The replacement surfacing section shall have a strength equal to or greater than the surfacing removed. The replacement surfacing section will not be less than four (4) inches of asphaltic hot mix and eight (8) inches of 1½ inch uniformly graded gravel. In no case will the new replacement section be less than the existing roadway section.

The gravel shall have optimum moisture and compacted to 95% proctor density or to the satisfaction of the inspector. Tack coat should be applied to all square cut edges of existing asphalt. The asphaltic hot mix shall be placed and compacted so as to leave no noticeable dip or depression. Areas under traffic will be paved the same day that they are excavated, except for special cases approved by the District Engineer. In emergency conditions, cold mix can be used but will be replaced by hot mix as soon as the weather will permit. The Department will retain the right to require seal coating to restore original surface conditions.

6. Warranty - Should there be any damage to the roadway due to the excavation, the permittee will be responsible for repair of settlement and other failures for one year following final completion of the work.

If the permittee does not repair the damage within 30 days after notification by the Department, the Department will complete the work and bill the utility for all costs involved.

JLK:ml:nr:33/4



CERTIFICATION  
AND  
INSPECTION

Applicant: \_\_\_\_\_

Submitted By: \_\_\_\_\_ Phone: \_\_\_\_\_

This is to inform your office that the work covered in our Utility Location Agreement No. \_\_\_\_\_ was completed on \_\_\_\_\_ as per plans and conditions of said agreement and will be ready for inspection by the State.

Signed \_\_\_\_\_

Title \_\_\_\_\_

-----

The work area covered by your agreement was inspected on \_\_\_\_\_, 19\_\_\_\_ and was found to be in \_\_\_\_\_ condition.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Comments if unsatisfactory:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT "C"

### BACKFILLING OF EXCAVATED AREAS BENEATH ROADWAY SECTION

Utility construction which lies beneath the construction limits of the roadway which requires backfilling of excavated areas shall be subject to inspection by engineers of the State and shall meet the following specifications. The State's inspector shall designate on the ground the specific area where these requirements shall apply.

#### BACKFILLING

All backfilling shall meet the following requirements except when other methods are specified for certain types of installations.

Backfill material shall not contain sticks, sod, frozen soil or other unacceptable matter.

Backfill material shall be placed in layers of six-inch loose thickness or less. All backfill material shall be compacted.

#### MOISTURE AND DENSITY REQUIREMENTS

Each layer of material shall be compacted, with the proper use of water, until the in-place density of the material being compacted is not less than 95 percent of the maximum density established for the material being compacted or the material source or both. Water required shall be sufficient to obtain optimum moisture content plus or minus two percentage points, as determined by Montana Test Methods, unless modified by the engineer for conditions applicable to the character of the material being tested.

Material tests used to establish the maximum density values will be performed in accordance with Montana Test Method MT-210, or AASHTO-T-99. In-place density and moisture testing will be performed in accordance with applicable Montana Test Methods MT-212, MT-215, & MT-218. The percent compaction will be determined after making proper adjustments, when necessary, for oversize material.

Each layer of roadbed material that cannot be properly tested by Montana Test Methods, MT-212, MT-215, & MT-218, shall be compacted with compaction equipment in addition to compaction by hauling and spreading equipment. Compaction equipment for rocky material that cannot be tested shall normally be grid rollers, pneumatic-tired rollers, vibrating rollers, vibrating compactors, or self-propelled tamping rollers. Sheepfoot rollers shall not be used unless specifically directed. Water shall be used where directed.

JLK:nr:33/2

## ENCROACHMENT APPLICATION AND PERMIT

---

(Project Affected)

---

(Maintenance Number)

## APPLICATION FOR PERMIT TO

---

(Insert Nature of Permit)

1. Name of Applicant:
2. Address of Applicant:
3. If Applicant is a Corporation give State of incorporation and names of President and Secretary:
4. Nature of Permit desired: (Give sufficient detail to permit thorough understanding, and submit blueprints or sketches, in triplicate, if desired by Field Maintenance Chief.
5. Highway survey stations at or near which installations or structures will be installed:
6. For how long a period is the permit desired:
7. REMARKS:

Dated at \_\_\_\_\_, Montana, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

---

---

(Signature of Applicant)

## (INSTRUCTIONS CONCERNING USE OF THIS FORM)

Applicant will complete this form in triplicate and transmit it to the Field Maintenance Chief within whose division the highway affected is situated. Field Maintenance Chief will, if the application is for a minor encroachment, i.e., installation of water, sewer, approaches, gas, and irrigation pipe, etc., and if he approves application, sign permit form on reverse side hereof. If application is for major encroachments, i.e. railroad crossings, attaching pipe lines to bridges, etc., the Field Maintenance Chief will forward form in triplicate to the Helena Office together with letter of transmittal giving full information and recommendation. When application is approved and applicant has signed acceptance, the original will be delivered to him. If Permittee desires, he may sign acceptance at time of signing application.



## P E R M I T

Subject to the following terms and conditions, the permit applied for upon the reverse side hereof, is hereby granted:

1. TERM. This permit shall be in full force and effect from the date hereof until revoked as herein provided.
2. RENTAL. Rental shall be
3. REVOCATION. This permit may be revoked by State upon giving days notice to Permittee by ordinary mail, directed to the address shown in the application hereto attached, but the State reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
4. COMMENCEMENT OF WORK. No work shall be commenced until Permittee notifies Field Maintenance Chief shown in application when he proposes to commence work.
5. CHANGES IN HIGHWAY. If State changes highway necessitating changes in structures or installations installed under this permit, Permittee shall make necessary changes without expense to State.
6. STATE SAVED HARMLESS FROM CLAIMS. In accepting this permit the Permittee, its/his successors or assigns, agree to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right of way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will, upon notice to it/him of the commencement of such action, defend the same at its/his sole cost and expense and satisfy any Judgment which may be rendered against the State in any suit or action.
7. PROTECTION OF TRAFFIC. Insofar as the interests of the State and the traveling public are concerned, all work performed under this permit shall be done under the supervision of the Field Maintenance Chief of the Montana Department of Highways and his authorized representatives, and he/they shall indicate the traffic control devices, the lighting thereof at night, placing of flagmen and watchmen, the acceptable manner in which traffic is to be handled, and shall specify to Permittee how road surface is to be replaced if it is disturbed during operations, but said supervision shall in no way operate to relieve or discharge Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6 hereof.
8. HIGHWAY DRAINAGE. If the work done under this permit interes in any way with the drainage of the State highway affected, Permittee shall, at its/his own expense, make such provisions as the State may direct to take care of said drainage.
9. RUBBISH AND DEBRIS. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the State.
10. WORK TO BE SUPERVISED BY STATE. All work contemplated under this permit shall be done under the supervision of and to the satisfaction of the authorized representative of the State, and the State hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the Permittee.
11. STATE'S RIGHT NOT TO BE INTERFERED WITH. All such changes, reconstructing or relocation shall be done by Permittee in such a manner as will cause the least interference with any of the State's work, and the State shall in no wise be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractors or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.
12. REMOVAL OF INSTALLATIONS OR STRUCTURES. Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
13. MAINTENANCE AT EXPENSE OF PERMITTEE. Permittee shall maintain, at its/his sole expense the installations and structures for which this permit is granted, in a condition satisfactory to the State.
14. STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS. In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the State, or by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State highway, shall be at the sole expense of the Permittee.
15. STATE TO BE REIMBURSED FOR REPAIRING ROADWAY. Upon being billed therefor Permittee agrees to promptly reimburse State for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this permit.
16. OTHER CONDITIONS AND/OR REMARKS.

Dated at \_\_\_\_\_, Montana, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

The undersigned, the "Permittee" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

Montana Department of Highways

BY \_\_\_\_\_

Maintenance Chief

\_\_\_\_\_  
Permittee

\_\_\_\_\_  
(Place)



STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS  
HELENA, MONTANA 59601

STRUCTURE ENCROACHMENT APPLICATION AND PERMIT

\_\_\_\_\_ (Project Affected) \_\_\_\_\_ (Maintenance Number)

APPLICATION FOR PERMIT TO

\_\_\_\_\_ (Insert Nature of Permit)

1. Name of Applicant: \_\_\_\_\_
2. Address of Applicant \_\_\_\_\_
3. If Applicant is a Corporation, give State of Incorporation and names of President and Secretary: \_\_\_\_\_
4. Nature of Permit desired: (Give sufficient detail to permit thorough understanding, and submit blue prints or sketches, in triplicate.) \_\_\_\_\_
5. Highway Survey Stations at or near which installations or structures will be installed: \_\_\_\_\_
6. For how long a period is the permit desired: \_\_\_\_\_
7. REMARKS: \_\_\_\_\_

Dated at \_\_\_\_\_, Montana, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
(Signature of Applicant)

[INSTRUCTIONS CONCERNING USE OF THIS FORM]

Applicant will complete this form in triplicate and transmit to the proper Chief Field Maintenance Bureau within whose Bureau the Highway affected is situated. The Chief Field Maintenance Bureau will forward form in triplicate to the proper Helena Office together with letter of transmittal giving full information and recommendation. When application is approved and applicant has signed acceptance, the original will be delivered to him. If Permittee desires, he may sign acceptance at time of signing application.

P E R M I T

Subject to the following terms and conditions, the permit applied for upon the reverse side hereof, is hereby granted:

1. TERM. This permit shall be in full force and effect from the date hereof until revoked as herein provided.
2. RENTAL OR FEES. Fees shall be
3. REVOCATION. This permit may be revoked by State upon giving 180 days notice to Permittee, except in emergency cases and then in no event less than 30 days by ordinary mail, directed to the address shown in the application hereto attached, but the State reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
4. COMMENCEMENT OF WORK. No work shall be commenced until Permittee notifies the proper Chief - Field Maintenance Bureau shown in the application, when he proposes to commence work.
5. CHANGES IN HIGHWAY. If State changes highway necessitating changes in structure or installations installed under this permit, Permittee shall make necessary changes without expense to State.
6. STATE SAVED HARMLESS FROM CLAIMS. In accepting this permit the Permittee, its/his successors or assigns, agree to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right of way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will, upon notice to it/him of the commencement of such action, defend the same at its/his sole cost and expense and satisfy any judgment which may be rendered against the State in any such suit or action.
7. PROTECTION OF TRAFFIC. Insofar as the interests of the State and the traveling public are concerned, all work performed under this permit shall be done under the supervision of the Chief - Field Maintenance Bureau of the Department of Highways and his authorized representatives, and he/they shall indicate barriers to be erected, the lighting thereof at night, placing of flagmen and watchmen, manner in which traffic is to be handled, and shall specify to Permittee how road surface is to be replaced if it is disturbed during operations, but said supervision shall in no way operate to relieve or discharge Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6, hereof.
8. HIGHWAY AND DRAINAGE. If the work done under this permit interferes in any way with the drainage of the State Highway affected, Permittee shall, at its/his own expense, make such provisions as the State may direct to take care of said drainage.
9. RUBBISH AND DEBRIS. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the State.
10. WORK TO BE SUPERVISED BY THE STATE. All work contemplated under this permit shall be done under the supervision of and to the satisfaction of and to the authorized representative of the State, and the State hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the Permittee.
11. STATE'S RIGHT NOT TO BE INTERFERED WITH. All such changes, reconstructing or relocation shall be done by Permittee in such a manner as will cause the least interference with any of the State's work, and the State shall not be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractors or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.
12. REMOVAL OF INSTALLATIONS OR STRUCTURES. Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the permittee has no control, excepted.
13. MAINTENANCE AT EXPENSE OF PERMITTEE. Permittee shall maintain, at its/his sole expense the installations and structures for which this permit is granted, in a condition satisfactory to the State.
14. STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS. In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State Highway, shall be at the sole expense of the Permittee.
15. STATE TO BE REIMBURSED FOR REPAIRING ROADWAY. Upon being billed therefor Permittee agrees to promptly reimburse State for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway or structure as a result of the work performed under this permit.
16. OTHER CONDITIONS AND/OR REMARKS.

Dated at \_\_\_\_\_, Montana, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The undersigned, the "Permittee" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

STATE OF MONTANA  
DEPARTMENT OF HIGHWAYS

By \_\_\_\_\_  
(Chief - Field Maintenance Bureau)

\_\_\_\_\_  
(Permittee)

\_\_\_\_\_  
(Place)

# UTILITY AGREEMENT COVER SHEET

Keep With Agreement At All Times

Project No.: P.E. R/W IC \_\_\_\_\_

Ready Date \_\_\_\_\_

Desg.: \_\_\_\_\_

County \_\_\_\_\_

Utility: \_\_\_\_\_

Agreements

Type: \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_

IC Funds: Programmed \$ \_\_\_\_\_

Obligated \$ \_\_\_\_\_

Estimate Total \$ \_\_\_\_\_

State Pay \$ \_\_\_\_\_

Company Pay \$ \_\_\_\_\_

Field Review Date: \_\_\_\_\_

Specials: Yes \_\_\_\_\_ No \_\_\_\_\_

Consultant: Yes \_\_\_\_\_ No \_\_\_\_\_

Approved: \_\_\_\_\_

Contractor: Yes \_\_\_\_\_ No \_\_\_\_\_

Approved: \_\_\_\_\_

Estimate & Plans Received: \_\_\_\_\_

R/W Documentation: Yes \_\_\_\_\_ No \_\_\_\_\_

Betterment: Yes \_\_\_\_\_ No \_\_\_\_\_

Requested \_\_\_\_\_

R.R. Involvement Yes \_\_\_\_\_ No \_\_\_\_\_

Forms Attached: \_\_\_\_\_ Addendum "A" (Buried Only)

\_\_\_\_\_ R/W 151-A (Property Interest)

\_\_\_\_\_ RWU-1 59A (No Expired Service Life)

City - County: \_\_\_\_\_ Title VI Compliance

\_\_\_\_\_ Partic. Splits in Plans

DATE OUT

DEPARTMENT OF HIGHWAYS ROUTING

DATE RETURNED

- |       |   |       |
|-------|---|-------|
| _____ | 1. Supervisor-Utilities Section (Estimate OK)     | _____ |
| _____ | 2. To Utility Company for Signature (Agreement)   | _____ |
| _____ | 3. Audit Unit (Agreement Review)                  | _____ |
| _____ | 4. R/W Attorney (If Utility Property Interest)    | _____ |
| _____ | 5. Supervisor-Utilities Section (Agrmt. Approval) | _____ |
| _____ | 6. FHWA (Not if Secondary Project)                | _____ |
| _____ | 7. Chief-R/W Bureau (Final Execution)             | _____ |
| _____ | 8. Notify Plans Section & Project Control         | _____ |
| _____ | 9. Final Distribution                             | _____ |

NOTE: BEFORE DISTRIBUTION, DATE ORIGINALS (2 COPIES)

Notify:

Negotiations: PIH \_\_\_\_\_ Est Rec. \_\_\_\_\_ Signed Agrmt. Ret. \_\_\_\_\_ Final Dist. \_\_\_\_\_

UTILITY STATUS

TO: Supervisor - Utilities Section

DATE: (Current)

FROM: \_\_\_\_\_

PROJECT: \_\_\_\_\_

PMS CONTROL NUMBER: \_\_\_\_\_

| A                          | B   | C  | D  | E                                     | F                               | G                                       |
|----------------------------|---|--|--|---------------------------------------|---------------------------------|---|
| Utility<br>or Railroad Co. | Agreement or<br>Exhibit<br>Received<br>Date | Final<br>Engineering<br>Authorized<br>Date | Relocation<br>Work<br>Authorized<br>Date | Relocation<br>Work<br>Started<br>Date | Estimated<br>Completion<br>Date | Relocation<br>Work<br>Completed<br>Date |

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If it is necessary for utility or railroad relocation work to be coordinated with that of the highway contractor, list below: 1) Utility or railroad involved, 2) The location of the work, 3) Reason for coordination, 4) How the work is to be coordinated, 5) Estimated time conflict will exist after highway construction starts, 6) Date appropriate special provisions sent to Contract Plans, 7) Other information that is appropriate.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Ready Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This form is to be submitted for each project that the district has received utility agreements on. The form is to be in to the Utilities Section by the first working day of each new month.

\_\_\_\_:\_\_\_\_:\_\_\_\_

cc: \_\_\_\_\_



## UTILITY AGENT DUTIES & RESPONSIBILITIES

Generally, the duties and responsibilities of the District utility agent will be to act as a representative in the field for the Montana Department of Highways making inspections, reports, audits and coordinating various phases of working where required in order to help implement and carry out right-of-way encroachment and utility relocation policies. More specifically, the District utility agent will be required to:

1. Investigate reports of utility company activities on Highway System R/W within his district to enable him to determine that such activities are being conducted in accordance with Montana Department of Highways' Regulations.
2. Assist the District Engineer and District Maintenance Chief in processing Common Use Agreements, Joint Occupancy Agreements or Encroachment Permits in accordance with Occupancy Regulations.
3. Expedite processing of estimates for utility relocation work when cost thereof is participated in by the Department of Highways.
4. Assist the Utilities Section, where requested, to help in completion of utility agreement between the Utility and the Highway Department.
5. Coordinate requests for right-of-way and centerline staking from the utility companies with the District Construction Supervisor.
6. Supervise inspection of utility activities on Highway System right-of-way as required to assure compliance with the Department of Highways' Regulations and Utility Agreements.
7. Inspect and accept salvaged materials.

Whenever the operations of utility companies and cooperatives necessitate written correspondence with the district personnel, the correspondence be directed to the appropriate district engineer, attention district utility agent. By addressing the correspondence in this manner, the district utility agent will receive the information and thus be able to expedite the request of the utility company. In instances where it is necessary to have verbal conversation regarding the above utility matters, contact should be made directly with the district utility agent.

UTILITY POLICY AND PROCEDURE MANUAL

CONTENTS PART V

5. Montana Law and Legal Opinions

|                    |    |
|--------------------|----|
| MCA 60-4-401 ..... | 64 |
| MCA 60-4-402 ..... | 64 |
| MCA 60-4-403 ..... | 64 |
| MCA 69-4-101 ..... | 65 |

MCA 60-4-401. RELOCATION - DEFINITIONS. For the purpose of the sections relating to relocation of utility facilities, terms are defined as follows:

- (1) Utility - includes publicly, privately and cooperatively owned facilities.
- (2) Cost of relocation - includes the entire amount paid by the utility properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.
- (3) Federal-aid systems - includes the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid interstate system, and urban extensions of all of them.
- (4) Interstate system - includes any highway now included or which shall hereafter be included as a part of the National System of Interstate and Defense Highways, provided for in the Federal-Aid Highway Act of 1956 and supplements or amendments.

MCA 60-4-402. RELOCATION OF UTILITY FACILITIES - HEARINGS - ORDER.

- (1) After appropriate hearings, the Commission may make and publish reasonable regulations for the installation, construction, maintenance, repair, renewal, or relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (hereinafter called "facilities") of any utility in, on, along, over, across, through or under any project on any of the Federal-aid systems.
- (2) The Commission shall give written notice of the place and time of a public hearing to determine the necessity of any relocation of facilities to all concerned not less than twenty days before the hearing. Hearing may be waived in writing by utility concerned or other interested parties.
- (3) After the hearing, the Commission may determine that any such facilities must be relocated. If so, the utility owning or operating the facilities shall relocate them in accordance with the valid order of the Commission. The utility and its successors and assigns may maintain and operate the relocated facilities, with the necessary appurtenances, in the new location.

MCA 60-4-403. RELOCATION COSTS. Seventy-five percent (75%) of all cost of relocation, including the costs of acquisition of new right-of-way, of dismantling, and of removal, shall be paid by the Commission as a cost of highway construction.

TELEGRAPH, TELEPHONE AND ELECTRIC LIGHT  
AND POWER LINES

MCA 69-4-101. RIGHTS-OF-WAY FOR POLE LINES ALONG STREETS, ROADS AND HIGHWAYS. A telegraph, telephone, electric light, or electric power line, corporation, or public body, or any other person owning or operating such, is hereby authorized to install its respective plants and appliances necessary for service, and to supply and distribute electricity for lighting, heating, power, and other purposes, and to that end to construct such telegraph, telephone, electric light or electric power line or power lines, from point to point, along and upon any of the public roads, streets, and highways in the State of Montana, by the erection of necessary fixtures, including posts, piers, and abutments necessary for the wires. But the same shall be so constructed as not to incommode or endanger the public in the use of said roads, streets, or highways and nothing herein shall be so construed as to restrict the powers of city or town councils.



E.O. PARSONS, Utilities Engineer

November 10, 1958

WALTER MURFITT, Highway Attorney

U-P-TV Cable  
Encroachment

This is to advise you that the TV cable is not a utility under the definition of the Statutes of Montana. There is no right in the company to use our right-of-way. There is no obligation to pay the cost of moving the cables.

Notify the company in writing to remove the TV cable from the right-of-way as an encroachment.

Sincerely,

WALTER MURFITT,  
Highway Attorney

UTILITY POLICY AND PROCEDURE MANUAL

CONTENTS PART VI

|    |   |    |
|----|---|----|
| 6. | Guidelines for Utility Occupancy and Relocation       |    |
|    | Policy Guidelines - Utility Relocation Work .....     | 68 |
|    | Guidelines for Utility Occupancy on Highway R/W ..... | 69 |

## POLICY GUIDELINES - UTILITY RELOCATION WORK

Unless utility work is made a part of the State's highway construction contract, it is generally in the public interest for utility relocation work to be performed by a utility with its own forces and equipment, provided:

- A. The cost of such force account work is reasonable and the utility is qualified to perform the work in a satisfactory manner.
- B. The utility is adequately staffed and equipped to perform the work with its own forces at a time convenient to and in coordination with the associated highway construction.

When the utility is unable to perform the work itself, it may, with State and Federal approval, accomplish the work by:

- 1. a contract awarded to the lowest qualified bidder based on appropriate solicitation.
- 2. an existing continuing contract provided the costs are reasonable.
- 3. a contract awarded, without competitive bidding, by the utility for work of relatively minor cost or nature, for example, tree trimming and the like.

Where the contract labor and the equipment costs, including all direct and indirect overhead and profit, exceeds \$50,000; the Department will require the work to be accomplished as set forth in Item 1 above unless the utility establishes to the satisfaction of the Department; it is cost effective and in the best public interest to do the work by some other method.

## GUIDELINES FOR UTILITY OCCUPANCY ON HIGHWAY R/W

These guidelines are primarily for use by the Districts for use in regulating utility occupancy of highway right-of-way. They are intended to be complementary and to help define the Department of Highways' interpretation of the regulations governing "Right-of-Way Occupancy by Utilities," Administrative Rules of Montana 18.7.201 through 18.7.241. If a discrepancy or controversy should arise, the Administrative Rules will govern over these guidelines.

### I. OVERHEAD INSTALLATIONS

#### A. Vertical Clearance

The minimum vertical clearance for overhead power and communication lines above the highway and the lateral and vertical clearance from bridges should conform with the current National Electrical Safety Code. In no event will a vertical clearance be permitted of less than 18 feet and if reasonably possible, not less than 21 feet. Consideration shall be given to temperature variations.

#### B. Location

##### 1. Rural

- a. On and along highways in rural areas, poles and related facilities should be located at or as near as practical to the right-of-way lines. Where right-of-way width and terrain features permit, as a minimum, these facilities should be located outside the appropriate clear zone for the roadway. As a general rule in rural areas, the clear zone is a minimum of 30 feet when measured from the edge of outside travel lane to nearest overhead utility. If there is any question of the appropriate clear zone, either the Engineering Services Supervisor or Maintenance Chief as appropriate should be consulted.
- b. Roadway crossings should be made as near as possible at right angles.

##### 2. Urban

- a. Facilities should be located at or as near as practicable to the right-of-way line. Where there are curbed sections, the utilities should be located as far as practical behind the face of outer curbs and, where feasible, behind the sidewalks. The facility should be a minimum of 2 feet behind the face of the curb.



## II. UNDERGROUND PIPE LINES

### A. Vertical Clearance

All pipeline construction should conform to all applicable codes, standards, and specifications. The cover for underground installations will not be less than 30 inches. Special attention must be paid to meeting this minimum at all roadway crossings where 42 inches of cover below the ditch line should be attained if reasonably possible.

### B. Location

1. New longitudinal underground pipelines should not be located under any portion of the pavement and should be located, if possible, so as not to interfere with future power or communication lines. The pipeline shall be located as near the right-of-way line as practical, depending on existing utilities in place.

Through cities and towns, due to right-of-way limitations and other existing utilities located on the right-of-way, it may not be possible to locate outside the paved surface. In such cases the underground pipeline may be located in the parking lane or outer portion of the roadway. Under such conditions the special requirements of Open Trench Crossings shall apply, Paragraphs D1 thru D6.

2. Roadway crossings should be made as near as possible to right angles.
3. In all cases additional pipeline stub or conduit for future growth or maintenance of facility should be considered at time of installation.

### C. Bored and Pushed Crossings

Where possible, all road crossings and paved approaches shall be pushed or bored at a depth of not less than 30 inches, and 42 inches if reasonably possible, below the adjacent drain ditches or adjacent ground lines as applicable. Boring pits should be located no closer than 10 feet to the edge of asphalt. Jacked or bored installations of coated carrier pipes should be encased. Exceptions may be made where assurance can be provided against damage to the protective coating. See AASHTO "A Guide for Accommodating Utilities Within Highway Right-of-Way."

### D. Open Trench Crossings

Trenching through the existing highway may be permitted only when pushing or boring have failed a minimum of three attempts or it can be proven it is impractical to push or bore to the satisfaction of the District Engineer. The following special requirements must be met if trenching is allowed:

1. Although the approved R/W 131 covering the location of the utility provides for minimum signing standards, the open trenching of a public roadway is of such importance to require the utility to submit a traffic control plan for Department approval. No work is to be done by the utility until the Department has approved such a plan covering maintaining or detouring of traffic during construction.
2. The Department will be notified 48 hours in advance of the work starting and 12 hours notice shall be given if this date is changed.
3. Excavation - Asphaltic surfacing shall be square cut prior to excavating with some type of cutting tool to a minimum distance of one foot beyond all trench excavation. Square cutting may be required again after backfilling operations if the existing asphalt section has been separated from the base course during construction.

If possible, the trench should be situated so the longitudinal joints will be at the center of the driving lane or at the outer edge of the driving lane. Longitudinal joints or manholes should not be located such that they will be in the wheel path.

Sidewalks are to be cut or sawed only at the joints. No portion of a sidewalk is to be undercut by excavation. If undercut, the sidewalk must be removed and replaced.

4. Backfilling - See Exhibit "C". Since backfilling and compaction of the roadway trench is of paramount importance, the Department will have the right to inspect all facilities and may require that an outside specialist be called in to take soil density tests. All costs will be paid by the utility.
5. Resurfacing - The replacement surfacing section shall have a strength equal to or greater than the surfacing removed. The replacement surfacing section will not be less than four (4) inches of asphaltic hot mix and eight (8) inches of 1½-inch uniformly graded gravel.

In no case will the new replacement section be less than the existing roadway section. The gravel shall have optimum moisture and compacted to 95% proctor density or to the satisfaction of the inspector. Tack coat should be applied to all square cut edges of existing asphalt. The asphaltic hot mix shall be placed and compacted so as to leave no noticeable dip or depression. Areas under traffic will be paved the same day that they are excavated. In emergency conditions, cold mix can be used but will be replaced by hot mix as soon as the weather will permit. The Department will retain the right to require seal coating to restore original surface conditions.

6. Warranty - Should there be any damage to the roadway due to the excavation, the permittee will be responsible for repair of settlement and other features for one year following final completion of the work.

If the permittee does not repair the damage within 30 days after notification by the Department, the Department will complete the work and bill the utility for all costs involved.

### III. UNDERGROUND ELECTRIC POWER AND COMMUNICATION LINES

#### A. Vertical Clearance

Underground utility construction should conform to all applicable codes, standards, and specifications. The minimum cover is 30 inches for electrical and 24 inches for communications. If reasonably possible on longitudinal bury, 30 inches of cover should be requested for both electrical and communication facilities. On underground roadway crossings, 42 inches minimum cover below ditch line should be requested if reasonably possible.

#### B. Location

1. On longitudinal installations, locations parallel to the roadway should be at or adjacent to the right-of-way line so as to minimize interference with the safe operation of the highway, the structural integrity of the roadway, highway drainage and embankment.

If no other underground utility is existing within the first five feet from the right-of-way fence on right-of-way line, the cable should be located within this five foot area if possible. All additional cables should be located parallel and not more than three feet from existing cable locations.

2. In hardship cases, the utility may be permitted to place underground facilities within the roadway cross section between the outermost point of the cut or fill and the edge of the pavement or surfacing courses. Such an installation will only be allowed if it will not endanger or incommode the public in the use of the highway.

Occupancy of the roadway cross section is to be permitted only under a revocable Encroachment Application and Permit (Form R/W 20) where it is physically possible to place the facility outside of the roadway cross section, but where the utility claims hardship because it is unusually difficult or expensive to locate outside the roadway cross section. Some examples of such situations follow:

- a. Where the location might be in a heavily wooded area which would have to be partially cleared to permit burial of a cable or installation of above ground lines.



- b. Another case would include most swampy areas which could be crossed with additional effort and expense.

Occupancy of the roadway cross section may be permitted under a Utility Occupancy and Location Agreement (Form R/W 131) only where it is physically impractical to locate outside of the roadway cross section. This would include situations where a reasonable and prudent person, giving consideration to Department of Highways' interests, would not require the utility to locate outside of the roadway cross section. Some examples of such situations follow:

- a. Where the roadway cross section is next to a high rock cliff such that it would not be practical to bury the cable except in the roadway cross section.
- b. Where the cable would have to be located in a blue ribbon trout stream if it is not located within the roadway cross section.
- c. Curbed sections or built up areas where there are no border strips or alternative areas where utility might locate. In such cases, utility may be allowed under pavement or surfacing course.

Before issuance of any forms, R/W 20 or R/W 131 under these provisions, the Supervisor - Engineering Services or Maintenance Chief, as appropriate, should be consulted.

- 3. Roadway crossings shall be made as near as possible to right angles.
- 4. The maximum number of cable installations within highway right-of-way for any utility will be four cable installations.
- 5. To the extent possible, all underground facilities should be installed to one side of the roadway.

#### C. Safety Design

In rural areas all closures, repeaters, transformers, downguys, etc., should be located outside the appropriate clear zone for the roadway (Sec. I., Paragraph B1) and where possible at the right-of-way fence or right-of-way line.

If there is no alternative to being within the clear zone, any above ground appurtenance allowed within the clear zone must be constructed, located, or protected such that it will not be a roadside hazard.

#### D. Bored and Pushed Crossings

All road crossings and paved approaches shall be pushed or bored at a depth of not less than 24 inches for communication and 30 inches for electrical below the adjacent drain ditches or adjacent ground



line as applicable. Forty-two (42) inches of cover below adjacent ditches or ground line for both electrical and communication lines shall be requested if reasonably possible. Boring pits should be located no closer than 10 feet from the edge of asphalt. Additional conduit for growth of facilities should be considered at the time of installation.

E. Open Trench Crossings

All conditions and provisions are to be the same as for underground pipelines, open trench crossings. (See Paragraph II, D; Page 3.)









